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The practice of the Free

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THE PRACTICE  
OF THE  
FREE CHURCH OF SCOTLAND  
IN HER SEVERAL COURTS.





# THE PRACTICE

OF THE

# ✓ FREE CHURCH OF SCOTLAND

IN HER SEVERAL COURTS.

FOURTH EDITION, REVISED.

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Prepared and Published by Authority of the General Assembly.

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EDINBURGH:  
MACNIVEN AND WALLACE.

1886.



## PREFACE.

THE object of this publication is to facilitate an understanding of the laws and constitutional practice of the Ecclesiastical Courts in the Free Church of Scotland. The General Assembly does not propose to decide authoritatively any controverted point by means of such a publication. Such points can be settled only by judicial or legislative action. But the work is authorized as a useful guide in ordinary matters, and as an instrument for assisting Ministers, Elders, Deacons, and members of the Church in judging how far particular questions have been authoritatively determined, and how far there remains any doubt regarding them.

We have endeavoured to indicate what appears to be the approved practice in each of the Courts, to point out how far it is distinctly supported by Acts of Assembly, how far it simply rests upon the general principles of Presbyterian Church Government, and to what extent there is room for doubt with respect to the authority for any portion of it. It is thought best to commence with a statement regarding the Kirk-Session rather than the Deacons' Court. The peculiarities connected with the constitution of the Deacons' Court make it inexpedient to introduce it as if it were the initial part of an ecclesiastical system. The Kirk-Session is the fitting basis from which to proceed upward. The subject of the Deacons' Court will take its place most appropriately and constitutionally in the form of a Supplement to the Chapter regarding the Kirk-Session. This method will facilitate the suggestion of sound views respecting the relative position of the Deacons' Court.

The subject of Discipline, and the processes therewith connected, may perhaps be made more clearly intelligible when taken by itself, and exhibited in its peculiarities with respect to the several Courts, after the constitution, powers, and functions of each of these Courts have been previously explained. The plan adopted, accordingly, is

to show, *first of all*, in distinct chapters, the Constitution, Powers, and Functions, of the Kirk-Session, the Presbytery, the Provincial Synod, and the General Assembly, respectively; and then to set forth continuously the principles of procedure and the authorized Processes in cases of Discipline, by means of an additional chapter. That chapter is divided into parts, so as at once to manifest the harmony of procedure in all the Courts, and the variety which belongs to each.

The issuing of the publication has been delayed by the necessity of providing for it a large Appendix. This is essential to its usefulness, as the Table of Contents is sufficient to show. The first Article of the Appendix contains all the Acts of the Free Assembly which are of practical consequence for guidance in ecclesiastical action. Some Acts with respect to the Sustentation Fund have been given, which are not now in force, but an exhibition of which is desirable for enabling the reader to trace the progress of the Free Church arrangements in that department.

While the Convener of the Committee is himself chiefly responsible for every part of the Text, he is called upon to acknowledge his obligations and those of the Church to George Meldrum, Esq., for the diligence and care bestowed on the preparation of the greater part of the Appendix. The Seventh Article of the Appendix as to Questions of Evidence, and the Tenth as to Forms of Libel, were contributed by Mr. Sheriff Cleghorn. The Articles as to Forms and Styles were arranged by the Convener, assisted by the Rev. John Thomson, Minister of St. Ninian's Church, Leith.

H. WELLWOOD MONCREIFF,  
*Convener of Assembly's Committee.*

2 BRUNTSFIELD PLACE, EDINBURGH,  
11th July 1871.

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NOTE.—In the present edition both Text and Appendices have been brought into accordance with the legislation of the Church since 1871. The Appendices have also been rearranged. The various Acts and Documents have been grouped according to their subjects so as to facilitate reference; and an attempt has been made, as far as possible, to codify the Regulations of the Sustentation Fund which now remain in force. The “seventh” and “tenth” Articles of the Appendix, referred to in Sir Henry Moncreiff’s Preface, will be found in the tenth and eleventh sections of the present Appendix.

May 1886.

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## CHAPTER I.

### THE KIRK-SESSION—ITS CONSTITUTION, POWERS, AND FUNCTIONS.

#### PART I.—*The Constitution and Officials of the Kirk-Session.*

THE Constitution of a Kirk-Session in the Free Church of Scotland is founded on principles indicated in the Word of God. The two leading principles are—(1.) That the Scriptures of the New Testament describe an office of government or ruling in each Church or Congregation as an office which may be exercised by parties who are not set apart as teachers or pastors; and (2.) That the evidence of the Old Testament writings and of relative history as to the constitution of the Jewish synagogue, combines with the apostolic references in the New Testament, and with the practice of the early Christian Church, in giving divine sanction to the existence of a body of Elders in each Congregation who are called, along with the pastor or pastors, to administer the laws of Christ in that Congregation. These two principles are held in connexion with the fundamental Presbyterian doctrine, that, under the Christian dispensation, no servant of Christ is warranted to exercise lordly authority over God's heritage; but that all Church government in the hands of Church officers is strictly ministerial, and cannot supersede the direct authority of Christ's Word over the consciences of individual members in his body.

In the application of these principles to the case of Kirk-Sessions, the following rules of practice have arisen:—

1. The Pastor or Pastors of each Congregation, along with a suitable number of Elders, who are not pastors, constitute a governing body, which is called the Kirk-Session.

2. Those Elders who do not exercise the pastoral office are called Ruling Elders. This designation describes their function as that of exercising spiritual oversight in the Church of Christ according to his Word. The number of Ruling Elders for each Congregation has never been fixed in the history of the Church of Scotland. The principle announced in the Second Book of Discipline is still maintained in the Free Church of Scotland, that the number ought

CHAP. I.

PART I.

Leading principles.

Members.

Pastor or Pastors.

Ruling Elders.

## CHAP. I.

## PART I.

to be regulated by "the bounds and necessity of the people." These Elders are elected for life, or until they cease to be members of the Congregation, or their resignation be accepted of, or they be held and declared to have resigned through long absence from sessional meetings, or they be deposed. They may be, and usually are, engaged in various departments of secular work or business. The principle has been acted on from the date of the adoption of the Second Book of Discipline to the present time, that, through the appointment of a sufficient number, the burden of the duties laid upon them should not be oppressive, or interfere with those of their ordinary callings.

Election of  
Ruling Elders.

3. The election of Ruling Elders belongs, in the Free Church of Scotland, to the members of the Congregation in full communion.

It is held that the mode of election may be regulated specifically by the Church Courts, provided no arrangement be sanctioned that is inconsistent with the free choice by the communicants, or with the superintendence and judgment of the Kirk-Session.

No detailed Directory as to the procedure in election has been adopted since the Disruption in 1843. But the General Assembly declared in 1864, that the Act XIV., Assembly 1846, is now the law on the subject, and supersedes all previous legislation that is inconsistent with its declarations and provisions.<sup>1</sup> That Act itself declares, with consent of a majority of Presbyteries, that it is not necessary or expedient at present to frame a minute and detailed Directory for regulating the election of office-bearers; that the Church should be satisfied with a recognition of general principles, and the adoption of one or two general rules; and that reliance should be placed, in the meantime, upon the spirit which seems generally to actuate both judicatories and congregations of the Church, for avoiding the necessity of judicially determining some points on which a diversity of opinion might exist, and yet securing general harmony in the appointment of office-bearers, and the peace and welfare of Congregations. The Act, while declaring that the election of Elders should be conducted upon the same general principles as the election of Ministers, declares also, that it is subject to *such modifications as the nature of the case and the practice and circumstances of the Congregations may suggest.*

Qualifications of  
Ruling Elders.

4. The qualifications required of Ruling Elders are the following:—

They must be in full communion with the Congregation.

Each of them must have attained the age of twenty-one years.

They must possess more or less of all the qualifications described in the New Testament, as needful for persons exercising spiritual oversight in the Church, whether such persons be designated in our translation by the term *bishop* or by the term *elder*.

<sup>1</sup> App. II. 2.

They must be “tender and circumspect in their walk, punctual in their attendance upon ordinances, and strict in their observation of the Lord’s day, and in regularly keeping up the worship of God in their families.”

CHAP. I.

PART I.

They must be “men of good life and godly conversation, without blame and all suspicion, careful for their flock, wise, and, above all things, fearing God.”

An ordained Minister who, from any cause not involving Church censure, is without a pastoral charge, is eligible as a Ruling Elder in the Congregation to which he belongs.

5. A person formerly ordained to the office of the Eldership in a different Congregation from that to which he now belongs (or in the same Congregation at a previous period, having since ceased to belong to it, but having now returned to it), is regarded as retaining the status of an Elder in the Free Church of Scotland. But he can only become (or be restored as) an Elder of a particular Congregation, or a member of its Kirk-Session, when he has been elected as such by the members of that Congregation in full communion, either at a congregational meeting, or by voting papers or otherwise, according to the procedure adopted by the Kirk-Session in carrying out the general principle that it appertaineth to the people to elect their office-bearers.—See Appendix No. II. 1.

Election of an Elder formerly ordained.

6. There is no law of the Church requiring a Kirk-Session to meet on any fixed days, or at any fixed intervals. The practice varies considerably. The practice of meeting on the Lord’s day is, to a great extent, avoided as inexpedient, although in special or urgent cases meetings may be held on that day. The ancient practice was to meet on a week-day after sermon. No absolute rule can now be laid down on the subject; but the spirit of the old law is in favour of the Kirk-Session being summoned to meet after a week-day prayer-meeting.

Time of meeting

7. The Kirk-Session is legally convened by authority of the Moderator, or by command of a superior Court, either through public intimation from the pulpit, or through personal citation to all the individual members. The citation is held sufficient, if a reasonable time be allowed by it for the attendance of the members. No meeting of Kirk-Session can be held at an hour when the Presbytery or Synod of the bounds or General Assembly is sitting.

Mode of convening the Kirk-Session.

8. It is not usual for any adjournment to be made from one sederunt of Kirk-Session to another. No decision has been pronounced by the General Assembly with respect to the power of the Session to adjourn in any circumstances. But the principle is clear, that no meeting can be held on any particular day, for the transaction of any new business not already commenced, without notice having been given to all the members, either personally *apud acta*, or by personal citation individually, or by intimation from the pulpit.

Adjournment of Meetings unusual.

9. The presence of a person invested with all the functions of the pastoral office is held essential to constitute a meeting of Kirk-

## CHAP. I.

## PART I.

Necessity for  
presence of Pas-  
tor as Moderator.

Quorum.

Powers of Mo-  
derator.

Power of deput-  
ing a Minister to  
act for him.

Appointment of  
Interim Moder-  
ator and Assessors.

Mode of consti-  
tuting a Session  
in a new Congre-  
gation.

Mode in Preach-  
ing Stations.

Session. If there be only one Pastor or Minister in a Congregation he always presides at the Kirk-Session, and is called the Moderator. If there be more than one, it is determined by their mutual agreement who shall act as Moderator at any particular meeting; and any Pastor of a Congregation, when not acting as Moderator, sits in the Kirk-Session as a constituent member.

10. Two members of Kirk-Session, along with the Moderator, form a sufficient quorum to enable the meeting to proceed to business.

11. The Moderator may introduce any business to the Session, and may address them regarding it. He has also, in common with the other members, the right of dissent and complaint against any decision to the Presbytery, or Synod, or General Assembly. But he has no deliberative vote, although, in case of an equality, he has a casting vote.

12. It has been considered as established by practice that, in the absence of the Moderator, any other minister of the Church may preside in his room, if deputed by him to do so. But the General Assembly of 1835, without condemning the acknowledged practice of this substitution in cases of discipline, decided unanimously that a Commission by a Kirk-Session to a Representative Elder could not be sustained, if the person acting as Moderator had not been specially authorized by the Presbytery.<sup>1</sup> A Minister acting in the room of the Moderator is designated Moderator *pro tempore*, and signs the minute as such.

13. In the event of a vacancy in the pastoral office, a Minister, who is a Member of Presbytery, is appointed by the Presbytery to act as Moderator of Session; and in the event of there being no Ruling Elders, or only one, through the death of those who held the office or otherwise, the Presbytery appoint one or more assessors from their own body to act as Members of Session, until a new election of a Ruling Elder or of Ruling Elders shall have taken place.<sup>2</sup>

14. When a new Congregation has been formed, and when the charge of it has been duly sanctioned as a full ministerial charge with all congregational privileges, the right to have a separate Kirk-Session is thereby acquired. With a view to constituting one, it is the duty of the Presbytery to name certain members of their own body to act as a Kirk-Session in that Congregation, until at least two Elders shall have been elected by the communicants, and duly admitted to their office.

The General Assembly of 1863 declared that it remains with the Presbyteries of the bounds to arrange in regard to the appointment of Elders, and the Establishment of Kirk-Sessions for local discipline and management in Preaching Stations, it being understood that a Minister of the Presbytery shall act as the Moderator of every such Kirk-Session. The Assembly also declared, that wherever the Presbytery deem it expedient the Elders of Preaching Stations may still be connected with regularly established Kirk-Sessions in sanctioned charges.<sup>3</sup>

<sup>1</sup> See Assembly Proceedings, *Presbyterian Review*, July 1835, page 12.

<sup>2</sup> This is the usual practice, but there is no law to prevent the Presbytery from appointing any minister or elder within their bounds to act as assessor, if he be willing.

<sup>3</sup> App. II. 2.

15. The Kirk-Session appoint a Session-Clerk, who is usually one of their own number, and whose duty it is to write regular minutes of the Sessional procedure, to engross the same in a permanent record, and to take charge of all Sessional papers, books, and documents. The Session-Clerk, when appointed, ought to make a solemn declaration that he will faithfully discharge the duties of his office. In the absence of the Session-Clerk, some one is appointed by the Session to act as Clerk *pro tempore*. The fact of his appointment should be entered in the minute, and the minute should be signed by him as Clerk *pro tempore*.

CHAP. I.

PART I.

The Session-Clerkship.

16. Every Meeting of Kirk-Session is both opened and closed with prayer. The minute must always bear at the outset that the Session was constituted (which expression is understood to imply that it was constituted with prayer), and at the end, that the meeting was closed with prayer. No minute can be sustained as valid, if it does not mention these two particulars. No extract from the minutes can be received which does not bear that the Session was "constituted," and which is not certified by the Session-Clerk as having been extracted by him from the Records of the Kirk-Session.<sup>1</sup>

Opening and Closing of Session.

17. Before proceeding to any other business, the Session ought, at each meeting, to hear the minutes of last sederunt read; and the judgment of the Session—approving of said minutes or correcting them—ought to be recorded. The approval or correcting of the minutes does not imply any power to alter the *res gestæ* of the former meeting. The only question is, the correctness of the minute, as a true account of what was done.

Approval of Minutes.

18. The meetings of Kirk-Session are not usually open to the public, or even to the Congregation. But the Session may hold open meetings, if they see special cause; and they are specially authorized to invite the Deacons to be present at any meeting, for the sake of their advice and assistance; although, in such a case, the Deacons have no vote.

Power of opening the Meetings to the Public.

19. The Session appoint an officer, who is in attendance at their meetings and executes their orders. He is usually, but not necessarily, the Beadle of the Congregation, who takes charge of the place of worship, and is responsible for its condition and arrangements. The appointment of the Beadle belongs to the Deacons' Court.<sup>2</sup>

The Session-Officer.

## PART II.—Powers and Functions of the Kirk-Session.

The Kirk-Session exercise rule ministerially under Christ according to his Word, and in prayerful consultation. They exercise this rule in spiritual matters over the Congregation. They are called upon to promote by their deliberations the religious interests

<sup>1</sup> For the subject of Extracts, see p. 21.

<sup>2</sup> See Supplement to Chap. I. p. 26.



## CHAP. I.

## PART II.

Range of Kirk-  
Session authority.Relation to the  
Pastor.

Use of Church.

Responsibility of  
Minister for the  
conduct of Wor-  
ship.Authority of  
Kirk-Session as  
to Congregational  
Meetings.Procedure as to  
Election, Ordi-  
nation, and  
Admission of  
Ruling Elders.

of all connected with the Congregation, whether young or old, in every scriptural way. Everything affecting the religious concerns of the Congregation, whether as to worship or discipline, belongs to their sphere. While recognising the Pastor as their Moderator, they determine as to the admission of Ruling Elders and Deacons to office, and their exclusion from it.

1. The Kirk-Session do not stand to the Pastor or Minister in the relation of his spiritual rulers. At the first meeting of Session, after his admission to office by the Presbytery, the fact of his admission, and its date, ought to be minuted. He is not responsible to the Kirk-Session for the discharge of his own functions, although, if he seem to neglect these, or to encroach upon the Session's functions, they can petition the Presbytery against his procedure. He is permitted to exercise a large discretion in his endeavours to advance the spiritual welfare of all classes and conditions of people within his reach. Hence it follows that the place of worship is at the disposal of the Minister for the spiritual purposes of his office. But he cannot use it, or allow it to be used, for any purpose which is not of a strictly religious, ecclesiastical, or charitable nature, without the consent of the Deacons' Court. On the other hand, neither the Kirk-Session nor the Deacons' Court can employ it for any purpose whatever without the Minister's consent. (Act VII. Assembly 1846.<sup>1</sup>)

The Minister is specially responsible to the Presbytery for the mode in which all the parts of public worship are conducted. Hence it follows that no one can act as Precentor without the Minister being satisfied with his qualifications, and with his mode of conducting the psalmody. The nature of the Kirk-Session's functions may lead to the conclusion that they ought also to be satisfied on these points. But the General Assembly have passed no enactment as to the election of Precentors.

2. No Congregational meeting which can be recognised as valid for ecclesiastical acts can be held, except by the authority of the Kirk-Session, or of a superior Court; and at every such meeting the Minister of the Congregation, if present, must preside.

3. The Kirk-Session determine when it is expedient to have an election of Ruling Elders, and what number is required. Whether the Directory of 1842 be in force or not as to any of its clauses, the Kirk-Session must take such steps as will secure that the persons chosen shall be *bona fide* the choice of the majority of those communicants who take part in the election by voting, after due notice from the pulpit. When an election of Ruling Elders has taken place, either by open voting at a congregational meeting in presence of the Kirk-Session, or by signed lists given in and opened at such a meeting, or in any other scriptural and constitutional method, the Kirk-Session are called upon to judge of the qualifications of the persons chosen. No person can be admitted as a Ruling Elder if the Kirk-Session be dissatisfied with his qualifications, unless their

<sup>1</sup> App. III. 2.



judgment be reversed by the Presbytery or a higher Court, when brought under review in an orderly manner, according to the rules of the Church. If the Kirk-Session be satisfied with respect to the question of qualifications, they ascertain whether the person or persons elected are willing to accept of the office or not. It is the duty of the Session to deal in a scriptural manner with the parties chosen to office, in order to obtain their acceptance. This duty is discharged to a large extent through the Moderator, but it by no means belongs to him exclusively. If the consent of the person or persons elected be obtained, the Kirk-Session appoint a day and hour for the ordination or admission, as the case may be, and direct an Edict to be issued and served to that effect, on a convenient Sabbath, at least ten free days previously to a time specified as appointed for a meeting of Session thereanent. It is the duty of the Session-Clerk to prepare the Edict. It is the duty of the Minister to read it from the pulpit. The Edict contains a statement of the steps which have been taken and the result, and it adds an intimation, that if any person have any objection to the life or doctrine, and consequently to the ordination or admission of the party or parties mentioned, that objection must be given in to the Session at the meeting, of which the time and place are specified, with certification, that if no objection be then and there given in, the ordination or admission will be proceeded with on the day and at the hour appointed.<sup>1</sup> At the time specified in the Edict, the Kirk-Session having met, ascertain from the Minister that the Edict has been duly issued and served. The Session then direct the Session Officer to intimate at the door, that if there be any objections, the Session are now prepared to hear them. If any objections are given in, the party making an objection is required to substantiate it forthwith as an objection to life or doctrine. If the objection appear, in the judgment of the Session, to be substantiated, they must decline to proceed with the ordination or admission, and must take the party objected to upon discipline. But if the Session find that the objections are frivolous or unsupported by evidence, it is their duty to proceed with the ordination or admission as appointed. The ordination or admission usually takes place on Sabbath, in the presence of the Congregation, at the close of one of the diets of public worship. The Session having been previously constituted, the Moderator gives a narrative of the steps which have been taken and their result. Then he calls upon the elected person or persons to stand up, and puts certain questions required to be answered satisfactorily, in terms of an Act of the General Assembly. (See Appendix, II. 1.) After satisfactory answers have been given, each elected person signs the formula in presence of the Congregation. (See Act II. 1874.) Then the Moderator, in the case of parties not previously ordained as Elders in any Congregation, sets them apart by special prayer to their office, and commends them to the grace of God. There is no imposition of hands, but, after offering up the ordination prayer, the Moderator formally

<sup>1</sup> App. XI. 1.

## CHAP. I.

## PART II.

admits them as members of the Kirk-Session, and to the spiritual rule of the Congregation. Thereafter, he gives to them the right hand of fellowship, in which he is followed by all the other members of Session present. In the case of parties formerly ordained as Elders, the Moderator puts the questions to them, and after receiving satisfactory answers, and after the signing of the Formula, admits them at once to office, without the ordination prayer. Of course this distinction, derived from the analogy of the long-established practice in the admission of Ministers, does not prevent the exercise of special prayer, in immediate connection with the admission to office in a particular Congregation of previously ordained Elders. The meeting of the Congregation is concluded by an exhortation from the Moderator, both to the newly admitted Elders and to the people. When the Congregation have retired, it is the duty of the Session to see that the newly admitted Elders take their seats as members of Session, and that their names are added to the roll.

Roll of Kirk-  
Session.

4. The Kirk-Session ought to keep a roll of its Members, and on each occasion of change in its membership, this roll ought to be revised and inserted in the Minute.

Election and  
Admission of  
Deacons.

5. The Kirk-Session determine when it is expedient to have an election of Deacons, and what number is required. The Kirk-Session exercise precisely the same functions, with reference to the election and ordination or admission of Deacons, as in the case of Elders. The regulating law is to be found in the Declaratory Act X., Assembly 1864, and the Act XIV., Assembly 1846; which last Act puts the procedure in the election and ordination of Deacons on precisely the same footing with that of Elders, the only difference being that the questions and formula at ordination are different, and are prescribed by Act I., Assembly 1884. (See Appendix II. 1 and 2; also, see Part I.)

Regulation of  
Action for Elders  
individually.

6. Each Ruling Elder is allowed to exercise a large measure of discretion in the discharge of his functions individually, with a view to the religious and moral interests of the people among whom he personally labours. But it is the duty and function of the Kirk-Session collectively to make arrangements for the division of the Congregation into districts, and the assignment of these as fields of labour to the Ruling Elders individually. They are empowered to regulate the exercise of all the functions belonging to Ruling Elders, in so far as the orderly working of these may require subdivision or co-operation. It is the duty of Ruling Elders to assist, in so far as they can, in visiting the sick, in arousing the careless, in instructing the young, in encouraging inquirers, in edifying and comforting believers, and generally in seeking after the fruits of the ministry. In so far as the performance of these duties can be rendered more efficient by systematic and combined arrangements, it is the function of the Kirk-Session to make such arrangements. It also lies with them to hold and appoint such meetings for prayer and reading of the Scriptures, as they may judge fitted

to advance the spiritual welfare of the people, or to promote the efficient execution of the office of Ruling Elder, provided they do not thereby interfere with the course of action adopted by the Pastor for the discharge of his peculiar functions.

7. It does not lie with the Kirk-Session to arrange in detail the duties of the Deacons individually, or to control their judgment as to the manner of discharging these. It is no part of the Kirk-Session's function to review the decisions of the Deacons' Court. If the Kirk-Session consider that the Deacons' Court have violated the Acts of Assembly or the Laws of the Church, the only remedy, besides friendly remonstrance, to which the Kirk-Session can have recourse, is that of presenting a petition to the Presbytery.

8. It is the function of the Kirk-Session to receive the resignations both of Elders and Deacons. No resignation of office by a Deacon is valid, unless addressed to the Kirk-Session, who exercise the same power with reference to Deacons which they do as to Elders, both in their admission to office, and in their removal from it.<sup>1</sup> The Kirk-Session may find that an Elder has ceased to be one of their number, or that a Deacon has ceased to be a member of the Deacons' Court, because he has ceased to be a member of the Congregation. It was held competent by the General Assembly in 1806, for a Kirk-Session to find, that an Elder has ceased to be one of their number, because he was not resident in the parish, and had failed to return, within a period of twelve months, to discharge the duties of his office. The General Assembly, in 1850, declared that five Elders, having withdrawn from the Session of which they were members for more than a year, had ceased to be, and no longer were, members of the Session or Deacons' Court of the Congregation.<sup>2</sup> The Kirk-Session have power, in the exercise of discipline, to pronounce sentence of suspension or deposition against either an Elder or a Deacon, when they find it necessary to do so, in accordance with the word of God, and with the rules of the Church.

9. With a view to the spiritual oversight of a Congregation by a Kirk-Session, it is necessary that an accurate roll of the members in full communion be kept by the Session-Clerk among the Sessional documents. A copy of this roll, revised by the Kirk-Session, and signed by the Moderator and Clerk, must be sent to the Presbytery of the bounds every year for attestation. In this copy of the roll sent to the Presbytery, there ought to be no blanks, in which new names could be added, and no names written on erasures, unless the same be duly noticed and attested by the Clerk's initials. The Kirk-Session may revise or purge the roll at any period; but it is usual to do so at the time of the dispensation of the Lord's Supper. It is absolutely necessary that the roll be so far revised or purged previously to every such dispensation, as to enable the Kirk-Session to ascertain with accuracy who are entitled to be admitted to communion, as being already members of the Congregation, or who may stand in need of admonition or

CHAP. I.

PART II.

No Power to regulate duties of Deacons or to review decisions of Deacons' Court.

Functions as to Resignations, etc., of Elders and Deacons.

Roll of Communicants.

<sup>1</sup> Assembly Proceedings, 29th May 1845, p. 172.

<sup>2</sup> App II. 2.

## CHAP. I.

## PART II.

other censure. It is frequently the practice, also, to re-adjust the roll immediately after the celebration of the communion, in order to make sure that the names of all persons are added to it, who, not having been members of the Congregation previously, have been allowed to communicate with it as members at that celebration, after satisfying the Minister and Session with respect to their qualifications. It is expressly required by Act IV., Assembly 1859, that, before any steps be taken in the election of a Minister, the Kirk-Session shall have a Roll of Communicants made up and attested, as containing the only list of those entitled to vote.<sup>1</sup> (See Chap. II. Part II. p. 56.)

Admission to  
Ordinances.

10. No one can be admitted to the privilege of Baptism or the Lord's Supper, in any congregation of the Free Church of Scotland, without satisfying the Kirk-Session of that congregation that he or she is qualified for admission to these privileges, in so far as man is called upon to judge, in the interpretation of scriptural rules. The Kirk-Session are entitled and called upon to insist upon three qualifications, viz. :—(1.) A confession of faith in accordance with the word of God and the standards of the Church. (2.) A life and conversation becoming the gospel, in so far as can be outwardly seen. (3.) A competent knowledge of religious truth, and of the nature and meaning of Christian ordinances.

Qualifications  
for Admission.

The recognised methods by which the Kirk-Session satisfy themselves as to the possession of these qualifications are *two*,—that of certificate, and that of examination and observation.

Persons who claim admission to the use of the ordinances of Baptism and the Lord's Supper, on the ground of their having been previously in communion with other congregations, must produce satisfactory certificates from the Kirk-Sessions of these congregations, to the effect that the parties named leave their respective congregations in full communion, and free from all ground of legitimate Church censure known to those Kirk-Sessions. Upon the receipt of any such certificate, it is the duty of the Kirk-Session to appoint the name of the party whom it concerns to be added to the roll. The Kirk-Session is bound, on the other hand, to grant such a certificate, when asked for by any person in full communion with their congregation, and against whom no legitimate ground of Church censure can be alleged. An authentic intimation from a Minister or Elder, that a person is in full membership with the congregation in which that Minister or Elder officiates, is sometimes allowed to stand as sufficient ground for the temporary or occasional admission of the person to communion in another congregation. But, in this case, the person's name is not added to the one roll, nor removed from the other.

Persons who ask for admission to the privilege of Baptism or the Lord's Supper, without having been previously in full communion with any congregation, are subject to the examination and observation of the Kirk-Session with respect to their qualifications. Without any inquisitorial minuteness, their outward conduct may be

<sup>1</sup> App. II. 3.

CHAP. I.

PART II.

Duties of Minister and Elders in judging of qualifications, etc.

judged of, through the observation of the Minister, or one or more of the Ruling Elders. If there be nothing in what is thus seen decidedly inconsistent with their profession, and fitted to subject the parties to Church censure, and if no charge against them be brought before the Session, it is not competent for the Session to reject them merely on account of what the Minister or any Elder may conceive to be the state of their minds, unless their profession or their knowledge be defective. It is usual for the Minister to take the principal charge of examining the applicants with respect to their profession and their knowledge. The Elders, however, are entitled and called upon to give their help in this department, in so far as their doing so may seem necessary or useful. If, upon the recommendation of the Minister or otherwise, the Kirk-Session are satisfied with the qualifications of the applicants, in that case, and in that case only, they are called upon to admit them to the use of sealing ordinances, and to appoint the addition of their names to the roll.

It is the approved practice for the Minister, in dealing with applicants for admission, in his character as Moderator of Session, not only to ascertain the existence of the qualifications of which the Session are entitled to judge, but to exhort the applicants with respect to all the more hidden qualifications which the word of God requires, and of which they themselves alone can judge. It is held to be his part, as a faithful minister, to leave nothing unsaid which may help the anxious and sincere, or may strike the conscience of the careless or the self-righteous. It is the part of the Ruling Elders also to help in this department, as they may see cause.

The Kirk-Session are entitled to regulate the mode for the distribution of Communion Cards and Tokens, according to their discretion.

Regulation of Cards, Tokens, etc.  
Discipline.

11. A specially important function of the Kirk-Session, is the exercise of discipline. This function belongs to the Kirk-Session exclusively in the first instance, with respect to all members and adherents of their Congregation, except the Pastor, who is specially subject to the immediate jurisdiction of the Presbytery.<sup>1</sup>

12. It is the function of the Kirk-Session, with concurrence of the Minister, to fix the times and hours of public worship on the Lord's day, to appoint Fast-days, and to authorize the administration of the Sacraments. But it is usual in the case of baptism, where the parent is in full communion, to leave the matter in the hands of the Pastor.

Times and hours of Worship, etc.

13. The Kirk-Session are entitled to appoint special collections at the Church doors for local purposes affecting the cause of Christ or the interests of the Congregation, except for the temporal relief of poor members, or the education of the children of the poor, for which objects the Deacons' Court are expressly authorized by Act of Assembly to appoint collections.

Special Collections for local purposes

14. Every Kirk-Session has a right and is bound to elect one of the Ruling Elders belonging to their number, as a Representative to the Presbytery and Provincial Synod of the bounds, to sit and

Election of Representative in Synod and Presbytery.

<sup>1</sup> See Ch. V. Parts I. and II.



## CHAP. I.

## PART II.

vote as a member of each of these bodies. The election is made after the rising of each ordinary meeting of the Synod, with which meeting the right conferred by the previous election ceases. It must take place within two calendar months after that date, except in the case of a newly-sanctioned charge, when the induction of the Minister and the constitution of the Session have taken place more than two months after the meeting of Synod, in which case the election may be within one month after the induction and constitution. (See Act I. 1875.) The election must be regularly minuted. It must also be certified in the body of the minute, that the person elected is *bona fide* an Acting Elder in the Congregation.<sup>1</sup> If the representative thus elected die or resign within the period for which his commission would otherwise last, a new election may be made within one month thereafter.

If one of the Ruling Elders in any Kirk-Session be chosen by a Presbytery to represent them in the General Assembly, that Kirk-Session must certify, according to a form prescribed by Act of Assembly, that he is *bona fide* an Acting Elder in their Congregation, and that he has signed the Formula.<sup>2</sup>

According to Act XIII., Assembly 1863, the Elders of Preaching Stations have the full status of Elders, and are eligible to sit in the General Assembly as representatives of Presbyteries.<sup>3</sup> But wherever such Elders are not connected with Kirk-Sessions established in fully sanctioned Congregations, their certificates of being *bona fide* acting Elders must be given by the authority of the Presbytery of the bounds, in such manner as to the Presbytery may seem most expedient.

Order of  
Business.

15. The usual and approved order of business in a Kirk-Session is as follows :—(1.) The opening prayer, and constituting of the Session. (2.) The taking down of the sederunt by the Clerk. (3.) The reading and approval of minutes of last meeting. (4.) Business of immediate and peculiar urgency. (5.) Matters left over at former meetings, in the order of their appearance on the minutes. (6.) New cases of discipline. (7.) Other business brought before the meeting, or naturally suggesting itself to the Session's attention.

Record.

16. It is the duty of the Kirk-Session to see that their proceedings are accurately recorded by their Clerk. They are bound to watch over the permanent and approved Record of those proceedings. They are held responsible by the Presbytery for its being regularly and faithfully kept. Not only must the facts as to the constitution and regular closing of each meeting be correctly stated, as well as the approval of each preceding minute, but the names of all the members present must be recorded. There must be no blottings or interlinings in the Record. If anything be deleted, it must be marked on the margin, and any word or words omitted must be written on the margin, and attested there by the Clerk's initials. Any erasure of the minutes can be made only by authority of the Presbytery, who may call for the Record at any time. It is sent up from time to time for examination and attestation

<sup>1</sup> App. III. 3.

<sup>2</sup> App. III. 5.

<sup>3</sup> App. II. 2

by that body. Every minute ought to be signed, both by the Moderator and the Clerk.

17. Any member of a Kirk-Session may enter his dissent from any part of their procedure which he conceives to be contrary to the Word of God, the Acts of Assembly, the received order of the Church, or the interests of Christ's cause. He may require his dissent to be marked in the Record. In order to be received, the dissent must be given immediately when the judgment dissented from is pronounced, and consequently can be given in by those only who were present at the pronouncing of it. Absent members are not entitled to dissent. It was decided, after careful deliberation by the General Assembly of 1828, that dissents could not be received even by the Assembly itself on any day subsequent to that on which the judgment dissented from was agreed to.<sup>1</sup> If a dissent has been given in at the proper time by one or more members of Session, there is no rule to prevent other members of Session who were present from intimating at the next meeting their adherence to that dissent. If reasons for the dissent be given in along with it, both the dissent and the reasons ought to be engrossed in the Record. If the dissent itself be duly given in, intimation may be also given that reasons for it will be added at a subsequent meeting, in which case it is competent to receive the reasons when produced, and also to answer them if the Kirk-Session see cause. But the Kirk-Session are not bound to enter those reasons in the Record. The right course is to appoint them to be kept *in retentis*, that is, to be preserved among the Sessional documents. A simple dissent, as here described, whether with or without reasons, is not sufficient to enable the person dissenting to bring the matter under the review of a superior Court. The effect is only to save him from any censure that may arise out of the procedure, and from seeming to acquiesce in what he considers contrary to the mind of Christ.

18. A member of Kirk-Session may not only enter his dissent from a judgment, but he may (as it is technically expressed) *dissent and protest for leave to complain* to the Presbytery. A dissent and complaint can be received only at the time when the judgment complained of is pronounced, and are incompetent at a subsequent meeting. Reasons of dissent and complaint must be lodged with the Session-Clerk within ten days from the date of the judgment and the protest. Copies of these reasons, with all the papers and extracts of minutes belonging to the case out of which the complaint has arisen, must be transmitted by the complainer or complainers to the Clerk of Presbytery. The copies, papers, and extracts must be all duly certified by the Session-Clerk.

The effect of a Dissent and Complaint, carried out in regular form, is to bring the proceedings of the Kirk-Session under the review of the Presbytery; and the complainer or complainers, and all parties in the case, as well as the majority of the Kirk-Session, are thereby sisted at the bar of the Presbytery. The giving in of a dissent and complaint has the effect of sisting the

<sup>1</sup> App. III. 5.

## CHAP. I.

## PART II.

procedure of the Kirk-Session in the matter to which the complaint relates, until either a final decision by the Presbytery, or Synod, or General Assembly be pronounced on the case, or the complaint be fallen from. A complaint may be fallen from at any time, but it is always held to be fallen from, if the reasons be not lodged with the Session-Clerk or Moderator within ten days.

## Power of Appeal.

19. A party in a case which has been under consideration by the Kirk-Session, may appeal against their judgment to the Presbytery. An appeal is taken at the meeting at which the judgment has been pronounced, and immediately on its being intimated to the party. Reasons of appeal are either stated by him at the time, and entered on the Record, or they must be lodged by him in writing with the Moderator, or with the Session-Clerk, within ten days from the date of the appeal. Copies of these reasons, with all papers and extracts of minutes, relating to the judgment appealed against, are transmitted by the appellant or appellants to the Clerk of the superior Court, after having been duly certified by the Session-Clerk. The effect of an appeal, duly prosecuted, is to bring the judgment under review of the superior Court. It sists at the bar of that Court the appellant or appellants, and all parties in the case, as well as all members of Session who do not dissent or complain. An appeal, which is not considered frivolous, sists procedure until a final judgment be pronounced regarding it by a superior Court, or until it be fallen from, except in those instances in which the General Assembly may have otherwise provided by special act or instruction. Such an appeal always prevents, during its dependence, the final execution of a sentence. Frivolous appeals may be disregarded, the right of the appellant to prosecute his appeal being always reserved. No member of Kirk-Session, who is not a party in a case, can take an appeal with relation to it. His appeal would be held incompetent, because he has the right of dissent and complaint. An appeal may be fallen from at any time, but is always held to be fallen from if the reasons for it be not lodged with the Session-Clerk or Moderator within ten days from its date.

Power of  
Reference.

20. The Kirk-Session may refer any case, or any branch of a case, to the Presbytery for advice; but they expose themselves to censure, if the Presbytery do not sustain the reference, and if they find that there was no occasion for it. The whole case may be referred *simpliciter*, without any remark being made upon it, or some special point of difficulty may be referred for solution. The subject referred, and the resolution to refer, ought to be transmitted to the Clerk of Presbytery, along with the whole particulars of the case, or so much of them as will make the reference thoroughly understood. Although a reference brings up all parties, care should be taken that they are all duly informed that the reference has been made. If the General Assembly meet before the next meeting of Presbytery, the reference may be made to the Assembly. The Kirk-Session instruct their Clerk to prepare and transmit to



the Clerk of Presbytery the papers, documents, and extracts which the case of reference requires. CHAP. I.

21. A party may be cited either *apud acta* (that is, by intimating to him the summons openly at the meeting of Session), if he be present, or by personal notice given to him through the Session Officer. The personal citation of a party by the Officer ought to be in writing, according to a form furnished by the Session-Clerk; and the Officer ought to retain a copy of the written citation, in order that he may report upon the subject with accuracy, so as to give clear evidence to the Kirk-Session or the superior Court that the party has been duly summoned.<sup>1</sup> PART II.  
Citation.

22. Any member of the congregation, or any person connected with it, may present a petition to the Kirk-Session regarding any matter which affects his or her spiritual interests, or the spiritual interests of the congregation, or the interests of the gospel in the locality, and which asks for any procedure within the competency of the Kirk-Session. If such a petition be worded in a manner becoming the profession of the gospel, the Kirk-Session ought to consider it, and to come to such competent determination regarding it as they may judge for edification. By their petition, if competent, petitioners become parties at the bar of the Kirk-Session, and have consequently the right of appeal as parties to the Presbytery or Assembly. Petition to a Kirk-Session.

23. It is competent for the Kirk-Session themselves to petition the Presbytery, or Synod, or Assembly, with relation to any subject within the competency of that superior Court to which the petition is addressed, if the subject be not one which can come up by reference, appeal, or complaint. Power of petitioning the Presbytery.

24. Complainers and appellants are entitled to such extracts from the minutes of Kirk-Session, and to copies of such papers in the Kirk-Session's hands, as are necessary to enable them to bring the subjects of their complaints or appeals fully before the Presbytery. It is usual, at the time of taking the complaint or appeal, to call for such extracts and copies. The fact of this request being made and acceded to, is expressed in the minutes by the phrase, "took instruments in the Clerk's hands, and craved extracts, which were allowed." "To take instruments" implies the tendering of a piece of money to the Clerk.<sup>2</sup> The Kirk-Session are not at liberty to refuse the requisite extracts and copies, in the case of a competent complaint or appeal, and the Session-Clerk is bound to furnish what the Kirk-Session have granted. The Kirk-Session, if they think fit, grant extracts to other parties besides complainers and appellants. But the Session-Clerk is not at liberty, in any instance whatever, to give extracts without the sanction of the Kirk-Session. Right of parties to Extracts.

25. It is the duty of the Kirk-Session to explain to parties the rules and forms of Church procedure, so that no injury may be done to any cause, through ignorance of those rules and forms. Explanation to parties.

<sup>1</sup> App. XI. 2.

<sup>2</sup> App. XI. 1.

## CHAP. I.

## PART II.

No power to review the action of another Kirk-Session.

26. One Kirk-Session cannot interfere with or review the procedure of another Kirk-Session. One Kirk-Session may remonstrate with another Kirk-Session in the spirit of the Gospel, or mutual explanations may be asked and given. But the only regular mode of redress for encroachment by one Kirk-Session on the province of another, is for the Kirk-Session who feel that their jurisdiction has been interfered with, to petition the Presbytery upon the subject. Such petition ought to be addressed to that Presbytery which has jurisdiction over the Kirk-Session whose procedure is complained of.

## SUPPLEMENT TO CHAPTER I.

THE DEACONS' COURT—ITS CONSTITUTION, POWERS, AND  
FUNCTIONS.PART I.—*The Constitution and Officials of the Deacons' Court.*

THE Constitution, in the Free Church of Scotland, of the meeting of Minister, Elders, and Deacons, which, according to the Act VII., Assembly 1846, may be called "The Deacons' Court," is connected in some measure with the position in which that Church found herself in 1843.<sup>1</sup> This Constitution was, however, carefully based upon principles indicated in the Word of God and upon the views and practice originally maintained in the Reformed Church of Scotland. The chief scriptural principles held on the subject are—(1.) That, according to Acts vi., Philippians i. 1, and 1 Tim. iii. 8, 9, 10, there is, in addition to the office of Bishop or Elder, a spiritual office in the Church, the duties of which relate to the temporal concerns of the Church; and (2.) That this office is one of relief or assistance to the Pastor and Ruling Elders, with a view to their greater freedom in their prosecution of their higher functions, and that, consequently, it ought to be discharged in consultation with the Pastor and Elders.

In the application of these principles, the following rules of practice have arisen:—

1. The Pastor or Pastors of each Congregation, along with the Ruling Elders and the Deacons, constitute a distinct and separate meeting, which has come in practice to be called the Deacons' Court.

2. The name of Deacon is understood to describe exclusively the function of administering the temporal affairs of a Congregation. The Presbyterian doctrine is, that the higher office scripturally includes the lower. The Pastor and Ruling Elders are, therefore, not excluded from the exercise of that function. The specialty of the Deacon's office is, that it embraces of itself no other function, and that it binds its possessor to do what he can to pre-

<sup>1</sup> App. III. 2.

CHAP. I  
SUPP.

PART I.

Principles

Meeting of Pastor,  
Elders, and  
Deacons.

Specialty of  
Deacons' Office.

CHAP. I.  
SUPP.

## PART I.

Duration of Office,  
etc.Election of  
Deacons.

Qualifications.

Monthly Meet-  
ings, etc.Mode of conven-  
ing Deacons'  
Court.

vent the ministry of the Word, or the work of the Eldership, from being hindered by the burden of temporal matters. No other rule can be laid down as to the number of Deacons in each Congregation than that it ought to be in proportion to the size and position of the Congregation. Deacons are elected for life, or until they cease to be members of the Congregation, or their resignation be accepted of, or they be held and declared to have resigned through long absence from meetings of Deacons' Courts, or they be deposed.

3. The election of Deacons belongs to the members of the Congregation in full communion.

There is no detailed Directory as to the order of procedure, except in so far as some may consider the Act X., 1842, passed previously to the Disruption, to have force in some of its clauses. But the only Acts of the Free Assembly on the subject, are the Act X., 1864, and the Act XIV., 1846, which state general principles, and appear, in the view of some, to supersede the obligations of any detailed Directory.<sup>1</sup>

4. The case of a person having formerly held the office of Deacon in another Congregation (or even in the same Congregation) is dealt with in the same manner as that followed in the corresponding case of a Ruling Elder.

5. The qualifications required of Deacons are the following:—

They must be in full communion with the Congregation.

They must be of "honest report," having an outward walk and conversation consistent with the profession of spiritual enlightenment and spiritual feeling. They must be "grave, not double-tongued, not given to much wine, not greedy of filthy lucre, holding the mystery of the faith in a pure conscience." They must be "proved" by reasonable trial in the ordinary membership of the Church.

They must be exemplary in their domestic relationships, "ruling their children and their own houses well," if they be parents or heads of families.

They must be "tender and circumspect in their walk, punctual in their attendance upon ordinances, and strict in their observation of the Lord's day, and in regularly keeping up the worship of God in their families."

They must be men of "good life and godly conversation, without blame and all suspicion," showing signs of scriptural wisdom and discretion, and careful for the interests of Christ's cause.

6. The Deacons' Court ought to meet once a month at least, with a view to the adequate oversight of the organization for the ingathering of the General Sustentation Fund. The question as to the frequency of meetings must depend, in some measure, on the peculiar circumstances of a Congregation; but the interests of the Sustentation Fund do not often admit of a longer interval than a month between one meeting and another. The ordinary business of the Deacons' Court cannot be transacted on the Lord's day.

7. The Deacons' Court is convened by citation from the pulpit,

<sup>1</sup> App. II. 1 and 2.

or by personal notice to the members. It is called by authority of the minister, or at the requisition of any three members,—said requisition being addressed to the Minister, or in time of a vacancy in the pastoral charge, to the Clerk of the Court.<sup>1</sup>

CHAP. I.  
SUPP.  
PART I.

The citation is held sufficient if a reasonable time be allowed by it for the attendance of the members.

Citation.

No meeting of Deacons' Court can be held at an hour when the Presbytery or Synod of the bounds is sitting.

8. With reference to the question of an adjournment from one sederunt to another, the same principle applies which has been stated respecting the adjournment of a meeting of Kirk-Session.

Adjournment.

9. If there be only one Pastor or Minister in a Congregation, he always presides in the Deacons' Court when he is present. In his absence any other member of the Court may be chosen to preside. If there be more than one Pastor, it is determined by mutual agreement who shall preside, when they are both present. The other Pastor sits as a constituent member of the Court.

Presidency.

10. The quorum of Deacons' Court is the same as that of the Kirk-Session, except that the presence of a Pastor as one of the quorum is not necessary.

Quorum.

11. The Chairman may introduce any business to the Deacons' Court, and may address them regarding it. He has no deliberative vote. In case of an equality, he has a casting vote.

Power of Chairman.

12. The Deacons' Court are required to appoint one or more Treasurers and a Clerk.

13. It is an approved practice to appoint one Treasurer for the contributions to the Sustentation Fund exclusively. It is expected that this Treasurer keep a Register embodying the contents of the Deacons' and Collectors' books, so as to enable him to judge at all times with respect to the condition and working of the arrangements in the Congregation for obtaining contributions.

Treasurers.

14. The Clerk of the Deacons' Court is required to keep a separate Record for the Minutes of its procedure, and to take charge of such of its papers, books, and documents as are not intrusted to the custody of a Treasurer.

Clerk

15. Every meeting of Deacons' Court is both opened and closed with prayer. The Minute must always bear at the outset that the Deacons' Court was *constituted*, and at the end that the meeting was closed with prayer. No Minute is valid without the mention of these particulars. No extract can be received which does not bear that the Deacons' Court was constituted, and which is not certified by the Clerk as having been extracted by him from the Records of the Court.

Opening and Closing, etc.

16. Before proceeding to other business, the Deacons' Court ought, at each meeting, to hear the Minutes of last sederunt read; and the judgment of the Deacons' Court—approving of the Minutes or correcting them—ought to be recorded. That judgment refers

Order of Business.

<sup>1</sup> App. III. 2.

CHAP. I.  
SUPP.

## PART I.

Power of holding  
open Meetings.  
Beadle.

only to the correctness of the Minutes as a true account, and not to the merits of the *res gestæ*.

17. The meetings of Deacons' Court are not usually open to the public, or even to the Congregation; but the Deacons' Court may hold open meetings if they see special cause.

18. The Church officer or Beadle who takes charge of the place of worship, and is responsible for its condition and arrangements, is an Officer of the Deacons' Court, and bound to be in attendance at the time of their meetings.

PART II.—*The Powers and Functions of the Deacons' Court.*General Powers  
of Deacons'  
Court.

The Deacons' Court have the management and charge of the whole property belonging to the Congregation, or held for the Congregation's use by Trustees appointed in terms of deeds which the General Assembly has sanctioned. They have also the management and charge of all the Congregation's secular affairs. They are called to receive the contributions of the Congregation or its Members for the objects sanctioned or allowed by the General Assembly; to make such arrangements for the ingathering of these contributions as they are required or permitted to make by the Acts or instructions of the Assembly; and to dispose of the funds raised in accordance with those Acts or instructions. The distribution of all the congregational funds is subject to the regulation of the Deacons' Court, in the exercise of their allowed discretion, or in obedience to the Presbytery, Synod, or General Assembly. The duty of attending to the temporal wants of poor persons connected with the Congregation, and to the education of their children, is specially assigned to the Deacons' Court.<sup>1</sup>

The powers and functions thus generally described are exemplified in detail as follows:—

No power of  
Discipline.

1. Although the Deacons' Court are called to apply spiritual principles to the management of secular matters, they are not authorized to exercise any kind of spiritual rule. The Court has, therefore, no power of discipline even over its own members. It can neither admit to the office of Deaconship, nor depose from it. Nor can the resignation of a Deacon be competently received by the Deacons' Court, nor dealt with by them in any way. But the Deacons' Court is entitled to certified extracts from the Minutes of Kirk-Session, in so far as by the admission, removal, suspension, or deposition of office-bearers, these Minutes affect its membership; and any change, of which the Court thus obtain evidence, ought to be recorded.

Roll of Court.

2. After each change in the membership of the Court, a revised Roll of the members ought to be recorded in the Minute.

Management.

3. The members of the Deacons' Court are not necessarily themselves the Local Trustees in whom the congregational property is vested, but the General Assembly approve only of such Title-Deeds as require the Trustees to leave the management in the hands of

<sup>1</sup> App. III. 2.



the Deacons' Court. It is competent and not unusual for the members of the Deacons' Court to be named as the Trustees. A Model Deed for the acceptance of Congregations was approved of and recommended by the General Assembly in 1851.<sup>1</sup>

4. The Deacons' Court are not entitled to give the use of the place of worship, or of the other ecclesiastical buildings belonging to the Congregation, for any purpose whatever, without the consent of the Minister. They are not entitled to withhold the use of those buildings for meetings of a strictly religious, ecclesiastical, or charitable nature, which have the sanction of the Minister. But no one of those buildings can be made use of, either by the Minister or by any other party, for any meeting which is not strictly of a religious, ecclesiastical, or charitable nature, without the consent of the Deacons' Court.

5. It is the duty of the Deacons' Court to see that the place of worship and other ecclesiastical buildings are kept in good condition and repair, and to take steps for raising the funds that are needful for this purpose.

6. In the discharge of their responsibility, it belongs to the Deacons' Court to appoint and dismiss the Church Officer or Beadle, to whom is intrusted the immediate care of the place of worship. It lies with them also to appoint and dismiss the Doorkeepers and any other parties employed in ministering to the comfort of the Congregation when assembled. It is also the function of the Deacons' Court to fix the Salaries of all these officials.

7. The Deacons' Court have no jurisdiction over the spiritual order of the house of God, or over the conduct of Public Worship in any of its parts. The appointment of a Precentor does not therefore properly belong to their department. But as the fixing of his Salary lies entirely with them, it is not unreasonable that they should be consulted in his election. The Assembly have not, however, passed any Act upon this subject.

8. It is the function of the Deacons' Court to appropriate the Sittings and Pews in the place of worship, and to determine all questions relating thereto; such as whether there shall be Seat Rents or not; and if there be Seat Rents, what the rates shall be per Sitting.

9. It is the duty of the Deacons' Court to make the requisite arrangements for carrying out the Acts of Assembly relative to the General Sustentation Fund, by dividing the Congregation into Districts; by assigning a District to each Deacon; by holding a Monthly Meeting, at which the Reports of the Deacons (or Collectors) are given in, and the contributions are received and handed over to the Treasurer for transmission to the General Treasurer appointed by the General Assembly. A Deacons' Court neglect their duty when they do not fulfil the substance, at least, of what is here described.

10. A Deacon may, with the sanction of the Deacons' Court, appoint Collectors to assist him where it is necessary, and the

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SUPP.

PART II.

Management of Funds and Property in Deacons' Court.

Power as to place of Worship.

Repair of Buildings

Appointment and Dismissal of Beadle.

Precentorship

Appropriation of Sittings and Pews.

Sustentation Fund Districts

Collectors.

CHAP. I.  
SUPP.

## PART II.

Elder may act as  
Deacon.

Deacons' Court may appoint Collectors who are not Deacons, for districts which have not been placed under Deacons. But the Church favours the practice of each Deacon collecting in his own district when practicable, while she expects each Deacon, at any rate, to visit his district personally from time to time.

11. It is allowable for a Ruling Elder to act as the Deacon of a district when no Deacon has been appointed to it. But this is regarded as a temporary expedient, which scriptural principles and the system of the Church's practice require to be terminated as soon as practicable in any case in which it may be employed.

12. Both Ruling Elders and Deacons may receive the Sabbath Collections of the people, according to such arrangements as may be made by the Deacons' Court.

Extraordinary  
Collections.

13. It is the duty of the Deacons' Court to see that the proceeds of all the Extraordinary Collections appointed by the General Assembly be handed to the appropriate Local Treasurer, and be by him transmitted in due time and order to the General Treasurer appointed by the General Assembly.

Foreign Missions

14. When a Congregational Association for the support of Foreign Missions has been formed with the sanction of the Kirk-Session and Deacons' Court, it is usual for that Court to sanction also the appointment by the Association of a separate Treasurer for that Fund, who shall be responsible to the Deacons' Court for the receipt and due transmission of the Quarterly Contributions.

Local Treasurer.

15. A Local Treasurer must be appointed by the Deacons' Court to take charge of those Congregational Funds which are applicable to local purposes. It is not unusual for the same Treasurer to take charge also of all the other funds, except of the Contributions raised for the General Sustentation Fund.

Seat Rents.

16. Where Seat Rents exist, and there is debt on the ecclesiastical buildings, the payment of the interest of the debt forms a primary burden upon the Seat-Rent Fund.

Supplement.

17. It has been enacted by the Assembly, that, after deducting feu-duty, the cost of insurance, the salaries of Beadle and Precentor, Presbyterial, Synodical, and Assembly charges, and the current yearly expenses for the maintenance of Public Worship, and the due administration of Gospel Ordinances, an adequate supplement to the Minister's Stipend be provided out of the Congregational Funds, before these funds are held applicable to any other purpose whatsoever.<sup>1</sup>

It is required that, after the deductions here mentioned, the Deacons' Court, before applying the proceeds of the ordinary Sabbath Collections to any other purpose, shall first of all consider, from time to time, the question, Whether any, and, if any, how much, addition to the Minister's Stipend should be made out of the Fund thus raised?

Surplus Fund.

18. After determining the question of Supplement to the Minister, it is the duty of the Deacons' Court to apply the remainder of the

<sup>1</sup> App. III. 2.



Congregational Funds, in fitting proportions, to religious, ecclesiastical, educational, or benevolent objects.

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SUPP.

19. It is also the function of the Deacons' Court to make special Collections at the church door, as often as may appear to them necessary, for the temporal relief of poor members of the Congregation, and for the education of the children of the poor. It is their function also to determine how, or in what proportion, the funds raised for these purposes shall be applied.

PART II.  
Special Collections.

20. It is their function to advise and instruct the individual Deacons as to their duties in detail.

Advice, etc., to Deacons.

21. The approved order of business is the same in substance as that of the Kirk-Session, though varying, according to the difference of the subjects. At the regular monthly Meetings the first business, after the approval of the Minutes, ought to be that of the Contributions to the General Sustentation Fund.

Order of Business.

22. It is the duty of the Deacons' Court to see that their Record is kept by their Clerk in the same manner as is required in the case of the Kirk-Session Record. (See Chapter I. Part II. Section 16.)

Record.

23. Any member of a Deacons' Court may enter his dissent from any part of their procedure of which he disapproves. And his dissent must be dealt with in the same manner as a simple dissent is dealt with by a Kirk-Session. (See Chapter I. Part II. Section 17.)

Dissents.

24. There is no right of regular appeal or complaint to the Kirk-Session, or to any of the Superior Church Courts, against a decision of the Deacons' Court. Their determinations are final, when they keep within their province, and obey the Acts of the General Assembly.

No power of regular Complaint or Appeal.

25. Any member of a Congregation or of the Kirk-Session may petition the Presbytery against the procedure of the Deacons' Court, on the ground of excess of power, or of disregard to Acts of Assembly. It is competent also for the Presbytery to find that the Deacons' Court have exceeded their power or disregarded the Acts, upon the periodical examination of the Record. The Presbytery may, in either of these cases, require the procedure to be altered, or censure the Deacons' Court, according to the nature of the case. The Deacons' Court may appeal to the Superior Courts; so also may the petitioners against the Deacons' Court's procedure, when the Presbytery reject their Petition.

Petition against Deacons' Court.

26. The Deacons' Court are bound to furnish Extracts to parties concerned in their procedure, in the same manner as the Kirk-Session is.

Extracts.

27. It is required by Act VII. Assembly 1846 that the Record of the Court, with the Treasurer's account of receipt and expenditure, after said account shall have been duly audited by appointment of the Court, shall be annually exhibited to the Presbytery of the bounds, at the first ordinary meeting thereof after the 15th of March, for the purpose of being examined and attested by the Presbytery at said meeting.

Annual production of Record, Auditing of Accounts, etc.

That on the first Monday after said attestation of the Record

CHAP. I.  
SUPP.

## PART II.

Annual Congregational Meeting.

and Treasurer's account, or on some convenient day of the first or second week following the attestation by the Presbytery, a Congregational Meeting shall be held, when the Deacons' Court shall present a report of their proceedings for the preceding year, give such information and explanation as may be asked for, and receive any suggestions which may be offered by the members of the Congregation for the consideration of the Court, with reference to the future distribution of the funds; and that the Congregational Meeting shall be convened by intimation from the pulpit, and the Minister, if present, shall preside in it.

## CHAPTER II.

### THE PRESBYTERY—ITS CONSTITUTION, POWERS, AND FUNCTIONS.

#### PART I.—*The Constitution and Officials of the Presbytery.*

THE Constitution of a Presbytery in the Free Church of Scotland is based upon scriptural principles. The foundation of it appears to be laid in the following views of what the Divine word indicates :—

#### CHAP II PART I.

(1.) The New Testament recognises no permanent office in the Church above that of a teaching elder or presbyter. That office is distinguished from what is called the office of Ruling Elder, simply by the special gifts that are required for the fulfilment of its functions, and not by the possession of superior power or authority in the Church. The variety of those gifts may be associated with variety of occupation. Whether a man be required to act officially in the Church as Pastor of a flock, or as Minister of the Word, or as Christ's Ambassador, or as Steward of the mysteries of God, or as Doctor, or as Ordained Professor of Theology, he, in the view of the Free Church of Scotland, holds the same scriptural office, above which there is no other. In common with the Ruling Elder, the Teaching Elder is both a Bishop and a Presbyter; while the obligations of the spiritual oversight, implied by the term Bishop, are laid more specially and fully upon him than upon the Ruling Elder.

Principles of  
Constitution

(2.) The scriptural equality of spiritual rulers appears, both by the nature of the case and by scriptural precept and example, to involve the obligation and privilege of meeting together for consultation, determination, and united action respecting the affairs of the Church. There seems also good warrant in Scripture for the principle that when the number either of Teaching Elders or Ruling Elders, or any other important circumstance of a permanent kind, renders it inexpedient that they should be all convened in one meeting, provision should be made for their being all represented at one meeting by some of their number chosen by them in fair proportion for that purpose.

(3.) The New Testament appears to sanction very distinctly the system of several Congregations, which are sufficiently contiguous in point of locality, being united under one presbyterial government, conducted by all the Teaching Elders or Pastors of the district, assisted by representatives of the whole Ruling Eldership.

## CHAP. II.

## PART I.

(4.) It seems to follow as matter of scriptural inference from these views, that, for the sake of unity and order, the judgments of Kirk-Sessions should be subject to review by the Court of Presbyters connected with the district,—the Court to which the name of *The Presbytery* is given in the Free Church of Scotland.

In the application of the principles now mentioned to the subject of the Constitution and Officials of Presbyteries in the Free Church of Scotland, the following rules of practice have arisen:—

## Membership.

1. A Presbytery consists (1.) of all the Pastors of Congregations within the bounds, Colleagues and Successors being included; (2.) of the Professors of Theology, whose appointed sphere of labour is within the bounds; (3.) of such Ordained Ministers within the bounds, and not having Charges, as had been received in the capacity of Members thereof previously to the meeting of the General Assembly in 1847, or who may since have been, or may hereafter, by authority of the General Assembly, be so received; and (4.) of a Representative Elder from each Kirk-Session within the bounds. (See Act XVII. Assembly 1847.)<sup>1</sup>

A Presbytery may associate with itself in its deliberations *pro tempore* any ordained Minister who is present, but he cannot vote upon any question before the Court. Ministers and Elders from other Presbyteries may be added as Assessors to a Presbytery for particular purposes by the Synod or the Assembly. For those purposes, and those alone, they have the rights of Members during their appointment.

## Duties of Pastor.

2. The practice of the Free Church of Scotland is to devolve on the same man all the functions which the office of Pastor or Teaching Elder implies, in connexion with a single Congregation. He is expected to pray for and with his flock as the mouth of the people unto God; to read the Scriptures publicly; and to feed the flock, by preaching the word (in doing which he is called, according to circumstances, to teach, to persuade, to reprove, to exhort, or to comfort). It is his function to administer the Sacraments, and to fulfil whatever else is required for the edification of the young or the old, in the exercise of his gifts. It is regarded as part of his duty to visit the people of his charge from house to house, and to give particular attention, by special visitation, to the afflicted and the dying. He is also required to do the work of an evangelist, so far as he has opportunity, in proclaiming the message of salvation to the ungodly. It is held to be within his province that he take a reasonable share in the raising and application of congregational funds, in the congregational care of the poor, and in the arrangements of the Church at large for such an adjustment of pecuniary resources as may glorify the Redeemer, and minister to the salvation of souls. Finally, a great amount of importance is attached to the due exercise, by a Pastor, of his functions as a spiritual ruler, whether in his own Kirk-Session and Congregation, or in the Presbytery of which he is a Member.

<sup>1</sup> App. III. 3.

3. The election and calling of a Pastor for any Congregation belong, in the Free Church of Scotland, to the Members of the Congregation in full communion; the mode of election and calling being subject to the regulation of the Church Courts. The General Assembly in 1859 passed an Act, with consent of a majority of Presbyteries, which now regulates the order of procedure in every case of the election and calling of a Pastor. (See Act IV., Assembly 1859.<sup>1</sup> See also Chapter I. Part II. Section 9, and Chapter II. Part II.)

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PART I.

Election of  
Pastor.

4. The following classes of persons are qualified to be elected, called, and admitted as Pastors of Congregations in the Free Church of Scotland:—

(1.) All persons who have been admitted to the status of Ministers by Presbyteries of the Church, and have not lost that status, whether they hold any pastoral charge or not; provided no special limitation as to the acceptance of calls has been attached by the General Assembly to their ordination.

Persons qualified  
for Office of  
Pastor.

(2.) Those who, without any special limitation attached by the General Assembly to their license, have been licensed to preach the Gospel by any Presbytery of the Church. Before any one of them can be ordained or admitted to a pastoral charge, the Presbytery of the bounds, or a superior Ecclesiastical Court, must be satisfied with the result of the trials, to which he is subjected after his election and call.<sup>2</sup> These trials are of the same kind with those required from a Student before receiving license. (See Chap. II. Part II.)

(3.) Ministers of the Presbyterian Churches in England and Ireland, and in the Colonies, who, though not called in the way of orderly translation, have been originally licensed as Probationers by Presbyteries of the Free Church of Scotland. These, if free from pastoral charges in those Churches, without censure, and if elected and called to pastoral charges in the Free Church, may be admitted without further examination, provided they give satisfactory answers to the questions appointed to be put immediately before admission, and conform to the Acts of Assembly as to signing the formula. (See Chap. II. Part II.; see Act VIII. Assembly 1850, Section VI.,<sup>3</sup> also Act II. 1874, and Act X. 1711.)

(4.) On conditions specified in recent legislation, all Ministers belonging to the Presbyterian Churches of England and Ireland, and in the Colonies, and also all Ministers belonging to the United Presbyterian Church, who may be called to pastoral charges in the Free Church of Scotland, in the way of orderly translation from charges already occupied by them, are admissible. But after the moderation of a call to any such Minister, when it has been found regular and sufficient so far as the Congregation is concerned, the Presbytery is required to transmit to him copies of all the Acts of Assembly in relation to the formula and the terms of his admissibility, and, before proceeding toward his settlement, to ascertain, at an adjourned meeting, that after seeing these documents, he has

<sup>1</sup> App. II. 3.

<sup>2</sup> App. V

<sup>3</sup> App. II. 3.

CHAP. II. found no difficulty regarding them. In other respects these  
 PART I. Ministers stand on the same footing with Ministers of the Free Church of Scotland who occupy pastoral charges. (See Act VIII. Assembly 1850, Section VI. Appendix No. II. 3. See also Act III. 1873, and Act II. 1874.)

(5.) All other Ministers and Probationers, not included in the classes already mentioned, are admissible whether they belong to the Presbyterian Churches of England and Ireland, or in the Colonies, or to any other denomination, who have been admitted to the status of Ministers or Probationers of the Free Church of Scotland by authority of the General Assembly according to the requirements of Act VIII. Assembly 1850, and Act I. Assembly 1878.

Professors of  
Theology.

5. Professors of Theology are appointed by the General Assembly, after the report of a Committee on election of Professors, in terms of Act X. Assembly 1859.<sup>1</sup> No one can be appointed a Professor of Theology who is not either a Minister or Probationer of the Church, unless he be a Minister of one of the Churches named in 4, (4) and be admitted by Act III. 1873. When a Probationer has been appointed, he must be ordained to the office of Theological Professor by the Presbytery of the bounds, in accordance with a special instruction by the General Assembly.

Ruling Elders  
representing  
Kirk-Sessions.

6. The election by a Kirk-Session of one of their number, concerning whom they can certify *bona fide* that he is an Acting Elder, besides being otherwise qualified, constitutes him a member of Presbytery for the current six months, if the Provincial Synod to which the Presbytery belongs meet twice a year, and for the current year, if the Synod meet only once a year. The Election must take place within two months from the last ordinary Meeting of Synod, and the Commission must not bear a later date, except in the case of newly-sanctioned charges, as referred to in Chapter I., Section 14, p. 17. Neither the Election nor the Commission has any force after the close of the next ordinary Meeting of Synod. A Ruling Elder cannot be allowed to take his seat in the Presbytery without a Commission, which is given in the form of an extract from the Minutes of Kirk-Session. This Commission is the evidence to the Presbytery that the Ruling Elder named in it is *bona fide* an Acting Elder, is otherwise qualified, and has been duly elected. It may be received and sustained at a *pro re nata* or *in hunc effectum* meeting as well as at an ordinary one. (See Act XII. 1839, Appendix III. 3.) In the event of a Ruling Elder thus commissioned being removed by death, or otherwise vacating his position as Representative Elder, a successor may be elected within one month thereafter.

Locality,  
Bounds, Name.

7. The locality, the bounds, and the name of a Presbytery are fixed by the authority of the General Assembly. New Presbyteries may be erected, or new arrangements made regarding old ones, as the Assembly may judge expedient. The Assembly also fixes the locality of the Presbytery seat, or the place of its usual meetings.

<sup>1</sup> App. IV.



CHAP. II.

PART I.

Presbytery of  
Foreign  
Missionaries.

8. When three or more ordained Missionaries are resident at any Foreign Station or in any Foreign District, it is competent for them, in subordination to the General Assembly, to form themselves into a Presbytery, there being always one Ruling Elder a member of any such Presbytery for every Missionary or Minister who belongs to it. (See Act IX. Assembly October 1843.<sup>1</sup>)

9. The election of Representatives to the General Assembly renders two meetings of Presbytery indispensable in the course of the year. (See Chap. II. Part II. Div. III.) Apart from the special limitations imposed on them with respect to these two meetings, Presbyteries have the power of meeting when they judge it expedient. But, in the exercise of this power, it is necessary for them, at each ordinary meeting, to resolve when the next ordinary meeting shall be held, to enter the resolution in their Minutes, and to cause public intimation of it to be made. If these requirements be neglected by a Presbytery, its power and functions are held to cease altogether until revived in a constitutional manner. A special method for this revival was agreed to by the General Assembly of 1866. (See Sect. 13.)

Special method  
for Revival of a  
Presbytery.

10. An ordinary Meeting of Presbytery may thus be described as one which takes place in consequence of an express adjournment for ordinary business from a previous ordinary meeting, or in consequence of an express appointment to the same effect by the General Assembly or the Provincial Synod, or in consequence of the dormant power and functions of the Presbytery having been revived in a constitutional manner. (See Sect. 13.)

An Ordinary  
Meeting.

11. An *in hunc effectum* meeting of Presbytery is a meeting specially appointed by the Presbytery for the transaction of some particular business. This kind of meeting requires that the particular business, and the time and place of meeting, be specified in the minute of the immediately previous ordinary meeting, along with the resolution to meet *in hunc effectum*, and that public intimation thereof be made at that ordinary meeting. No other business can be transacted at an *in hunc effectum* meeting except that for which it has been specially appointed.

An *in hunc  
effectum* Meeting.

12. A *pro re nata* meeting is a meeting called during the interval between one ordinary meeting and another, in consequence of some unexpected business having arisen which requires to be immediately attended to. Such a meeting may be called by the Moderator, either on his own motion, or in consequence of a requisition addressed to him by some of the members. The specific object must be distinctly stated in the circular calling it, and no other business can be transacted at it. The circular must be sent to every member in reasonable time before the day fixed upon. When that day occurs between the meeting of Synod and the first ordinary meeting of Presbytery thereafter, the Moderator in sending the circular must request the Moderators of Kirk-Sessions to intimate it to their Kirk-Sessions, that they may have an opportunity of

A *pro re nata*  
Meeting.

<sup>1</sup> App. III. 3.

## CHAP. II.

## PART I.

electing representatives. (See Act VI. 1868.) When the meeting takes place, the Moderator must explain his reasons for calling it, and the Presbytery must pronounce judgment upon his conduct in doing so. If the Moderator decline to call a *pro re nata* meeting after a requisition to do so has been addressed to him, the whole circumstances of the case may be brought before the Presbytery at its next ordinary meeting. Any member absent from a *pro re nata* meeting, may, at the next ordinary meeting, raise the question as to the propriety of its having been called, or as to the manner in which it may have been called.

13. The following Overture and Interim Act were agreed to by the General Assembly of 1865, and passed into a Standing Law by the General Assembly of 1866, viz. :—

Revival of a  
Presbytery.

That hereafter, when from any cause it shall happen that there is no day fixed for the next ordinary meeting of Presbytery, it shall be competent for any three or more of its members to address a requisition to the Moderator to call a meeting of the whole members of Presbytery, for the purpose of naming a day on which the Presbytery shall meet and proceed with ordinary business; that the Moderator shall be bound to comply with such a requisition, and to call a meeting to be held on a day not less than ten, nor more than fifteen, days from the date of the requisition, by circular letters addressed to every member on the roll of the Presbytery; and that the meeting when held shall be considered as a *pro re nata* meeting; at which no other business can be transacted except the naming of a day for the next ordinary meeting: Provided always, that at the next ensuing meeting of the Provincial Synod the Presbytery shall be bound to explain the causes that have necessitated their adopting the special procedure authorized by the Act, and shall be liable to censure if the explanation be unsatisfactory.

No Meeting  
during sittings  
of Assembly or  
Synod.

14. No meeting of Presbytery can be held while either the General Assembly or the Provincial Synod of the district is sitting, except when special leave to that effect has been granted by the Assembly or Synod respectively.

Quorum.

15. Three Members of Presbytery form a quorum, provided two of the members have the status of ordained Ministers.

Validity of Meet-  
ing when Elders  
have been duly  
elected.

16. The General Assembly of 1865 found, that when at the time, and in the place appointed, for a meeting of Presbytery, two Ministers, and one or more Ruling Elders, duly elected to represent a Kirk-Session or Kirk-Sessions, have convened together, there is a valid meeting of Presbytery; and that the production of valid commissions by Elders in such circumstances is sufficient evidence of their election. A special Form of Minute has since been agreed to for enabling Presbyteries to carry this Finding into practical effect.<sup>1</sup>

Commissions to  
Elders receivable  
at *in hunc effectum*  
and *pro re nata*  
Meetings.

17. Commissions to Ruling Elders may be received at an *in hunc effectum* meeting, or a *pro re nata* meeting, as well as at an ordinary one, and in the case of a *pro re nata* meeting being called

<sup>1</sup> App. III. 3 and XI. 1.



between the meeting of Synod and the next ordinary meeting of Presbytery, the Moderator must request the Moderators of Kirk-Sessions to intimate said meeting to their Sessions, that representatives may be elected. (Appendix III. 3.)

18. It is the settled practice for every Presbytery to elect one of the Ministers included in it as their Moderator, at the first ordinary meeting which is held subsequently to any ordinary meeting of the Provincial Synod. The Presbytery has perfect freedom in the election of its Moderator from the list of its Ministers. But the course usually followed is to appoint each Minister in succession, as the names stand on a Roll, which is made up according to seniority of Ordination. In the absence of the Moderator, the Minister who previously held the office takes the chair *pro tempore*, and failing him the senior Minister present does so. It is always in the power of the Presbytery to appoint a Minister to act as Moderator *pro tempore*, on any particular occasion. If a Minister take the chair *pro tempore*, whether through ordinary rule or through special appointment, simply in consequence of the Moderator's absence, and the Moderator appear at any stage of the proceedings, he is required to take the chair immediately, and the *pro tempore* occupation of it ceases *ipso facto*.

Election of Moderator.

19. The Moderator has no deliberative vote; but he has a casting vote in case of equality. He is not permitted to take part in any discussion while he occupies the chair, but he may ask leave to vacate the chair for the purpose of expressing his opinion. When this request is granted, the chair is occupied in the meantime as it would be in his absence.

Moderator has only a casting vote.

20. It is the duty of the Moderator to preside in the devotional exercises of the Presbytery, to pronounce the blessing at the close of each Meeting, and to act as the organ of the Presbytery in keeping order, in announcing decisions, in administering rebukes and admonitions, in instructing parties at the bar, and in calling upon Members to state their views, to give their votes, or to discharge any functions which have been assigned to them. At the ordination of a Minister, or at the licensing of a Probationer, the acting Moderator puts the appointed questions, offers up the appointed prayers, and delivers the appointed exhortations.

Duties of Moderator.

21. The Presbytery appoints one or more Clerks. The Clerk is usually a Member of Presbytery. He may be specially appointed *ad vitam aut culpam*: or he may be simply employed to act as Clerk during the pleasure of the Presbytery. On his appointment he solemnly promises to discharge the duties of the office with fidelity. It is the duty of the Clerk to write regular Minutes of the Presbytery's procedure, to engross the same in a permanent record, after they have been approved of by the Presbytery as correct, to give such extracts to parties as the Presbytery have allowed, and to take charge of all the Presbytery's papers, books, and documents. In the absence of the Clerk some one is appointed by the Presbytery to act as clerk *pro tempore*. The fact of his appointment should be entered in the Minute, and the Minute should

Clerks of Presbyteries.

## CHAP. II.

## PART I.

Opening and  
closing.

Minutes.

Approval of  
Minutes.Openness of  
the Court.

be signed by him as Clerk *pro tempore*. The Clerk of Presbytery has usually a salary drawn from contributions by the congregations within the bounds, and from fees paid for extracts. These contributions and fees are regulated by each Presbytery for itself.

22. Every meeting of Presbytery is both opened and closed with prayer. The usual and approved practice is to open every ordinary meeting with the full devotional exercises of praise, reading of the Scriptures, and prayer following. The Minute must always bear at the outset that the Presbytery was constituted (which expression is understood to imply that it was constituted with prayer, and that a sufficient sederunt has been ascertained), and at the end, that the meeting was closed with prayer. No Minute can be sustained as valid if it does not mention these two particulars. No extract from the Minutes can be received which does not bear that the Presbytery was constituted, and which is not certified by the Presbytery Clerk as having been extracted by him from the Records of the Presbytery.

23. After ascertaining that there is a sufficient quorum of attendance, and before proceeding to any other business, the Presbytery must, at each ordinary meeting, hear the Minutes of the last ordinary meeting, and the Minutes of any intervening *in hunc effectum* or *pro re nata* meeting, read by the Clerk. The Presbytery must then either approve of these Minutes as read, or correct them, and approve of them as corrected. They cannot afterwards be altered, except by the authority of a higher Court. The Minutes of any proceedings which have taken place when the Presbytery were alone are not of necessity read or approved of until the Presbytery are again alone at an ordinary meeting. The approval or correcting of the Minutes does not imply any power to alter the *res gestæ* of the meeting. The only question is the correctness of the Minute as a true account of what was done. The Minute of each Meeting or Sederunt must, after it has been approved of and engrossed in the permanent Record, be signed by the Moderator and Clerk. Any person who has acted either as Moderator or Clerk during a portion of a Sederunt, ought to sign the Minute of that Sederunt, as Moderator or Clerk *pro tempore*, in addition to the signature of the other person occupying either office. The Sederunt of every Meeting (that is, the names of all the Members present) must be accurately recorded in the Minute.

24. The Presbytery is, by long-established practice, an open Court. It is held desirable that this Court should be open with respect to all ordinary matters that occupy their attention. But they have the power of closing their doors, and declaring their wish to be alone, when they judge it more for edification. In case of their abusing this power, the abuse may be corrected by the Synod or the General Assembly. They usually sit in private when dealing with cases of discipline that involve charges or proofs of scandal, if the publication of those charges or proofs might be injurious to justice or purity. They are bound by Act of Assembly to be alone when students are proposed for trial, and when the private trials of students are going on. (See Act XI. 1860, Appendix V.)

25. The Presbytery appoint an Officer, who is in attendance at their meetings, and executes their orders. At his appointment he promises to perform the duties of the office with fidelity. He has a salary arising from contributions by the congregations, and regulated by the Presbytery.

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Officer.

26. It is needful that an accurate Roll of the Members of Presbytery be kept by the Clerk as authorized by the Presbytery, and that it be corrected regularly on the occurrence of changes. The names of the Ministers ought to be in the order of ordination, and the state of it ought to be carefully recorded in the Minutes.

Roll of Members.

## PART II.—Powers and Functions of the Presbytery.

From the introduction to Part I. (2.), (3.), and (4.), it may appear that while the Presbytery is a court of review, it is at the same time the original or radical court out of whose constitution the other Church Courts take their rise. For the idea of it, as derived from scriptural principle, is, that it might exist at first in any locality, simply as a meeting of Pastors and Ruling Elders connected with a single congregation, so as to render the separate existence of a Kirk-Session unnecessary; but that the enlargement of the Church in a locality, by creating a necessity for several congregations, leads also to the institution of Kirk-Sessions, and to the representation of each of these in the Presbytery, only by its Moderator and a specially elected Ruling Elder, in consequence of the whole Eldership being too numerous a body for the convenience of Presbyterial business. This view of the *radical* character of the Presbytery would be literally applicable to a Presbytery which existed originally as the governing body of a Church consisting of a single congregation in a particular locality. The same *radical* character must attach to any ecclesiastical judicatory, which, whether larger or smaller, comprises *all* the Ministers, Professors, or Ruling Elders of a Church. In proportion as any such judicatory becomes either merely representative or merely fractional, it loses something of its radical character. But the constitution of the Free Church of Scotland preserves a large portion of the radical character in the Presbyteries. That character connects itself scripturally with the institution of Kirk-Sessions. Scriptural considerations of a similar kind lead to the connexion of a Presbytery with the Courts having jurisdiction over it. The functions of a Presbytery may be thus comprehended under three Divisions, viz.: the Division embracing the department of original action; the Division embracing the department of review; and the Division embracing special relations to the Superior Courts. On the one hand, there are many proceedings which the Presbytery alone can originate. On the other hand, the Presbytery has an oversight of Kirk-Sessions, and every decision of a Kirk-Session may be brought before the Presbytery, either by appeal, or by dissent and complaint, or by reference, or by petition, or through inspection of the Session Records by the Presbytery itself, or through a Presbyterial visitation. And beyond these two lines of

Scriptural and Constitutional position of the Presbytery.

Three Divisions of Functions

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duty the Presbytery is called upon to perform its appropriate part toward the Synod and the General Assembly. The following rules of practice in these three departments have arisen out of the principles already indicated:—

*Division I.—Department of Original Action.*

Power as to  
Licensing,  
Ordaining, etc.

1. The Presbytery possesses inherently the function of deciding whether young men are qualified or not to be received into the number of enrolled students of theology, with a view to their being set apart as preachers of the Gospel, and as persons who may be called to the pastoral office. It has also the function of examining them as to their qualifications at any stage of their progress; of determining, in due time after examination, whether they may be licensed to preach the Gospel or not, and of licensing them if they be found qualified. In the Free Church of Scotland, the exercise of these functions by the Presbytery is very particularly regulated by Acts of the General Assembly.

Legislation as to  
Students and  
Licentiates.

2. The whole legislation now in force upon this subject is embodied in a Declaratory Act of Assembly passed in 1860, except in so far as additional rules have been adopted since that date. The Act will be found in Appendix No. V. The additions are five in number. One of these was made in 1863, when the Assembly authorized the Board of Examiners to accept a degree of Master of Arts in place of the examination by the Board in those branches of literature and philosophy which are embraced in the examination for that degree (see Acts 1863, page 378). The second and third additions were made in 1864. The second required Ministers, before granting certificates to students in their congregations, to consult with the Elders as to the character of the students. By the third, the Assembly agreed to receive students who, in an English or Irish University, have taken a Degree in Arts, or passed the examination for a Degree in Arts, which is equivalent to the degree of M.A. in Scotland, as standing on the same footing with students who have taken such degree of M.A. in any of the Scottish Universities (see in the Appendix V. Act VI. Assembly 1864). By the fourth, students are required to produce to the Professors under whom they desire to study, a certificate of their having passed satisfactorily an examination by a Board of Examiners appointed by the General Assembly before entering the Divinity Hall for the first time (Act I. Assembly 1881). By the fifth, students must be examined by the same Presbytery throughout the whole course of their attendance at the Divinity Hall, unless regularly transferred from one Presbytery to another, and in the event of such transference they must produce a certificate from the Presbytery by which they were last examined, that they were satisfied with their previous examination (Act III. Assembly 1882).

3. It may be seen from the Act VI. 1860 that a Presbytery cannot proceed to the trials of a student for license without the leave of the Provincial Synod, after due notice shall have been

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given to the several Presbyteries within the bounds of that Synod, in a specified manner.

4. It is the usual practice for the Presbytery to proceed toward the immediate licensing of a student to preach the Gospel at the same meeting at which they have been satisfied with his trials upon a conjunct view of them. After this final judgment in his favour has been arrived at, the Moderator proceeds, in the name of the Presbytery, to put the questions required by the Act of Assembly; and satisfactory answers having been obtained, he, in the name and by authority of the Presbytery, solemnly licenses the student to preach the Gospel within the bounds of the Presbytery, and wherever else his lot may be cast in the course of God's Providence. Thereafter the Moderator addresses the newly-licensed preacher in suitable terms, and the Presbytery then engage in prayer, the Moderator conducting the devotions. At the conclusion of the procedure, the Moderator and other members give the right hand of fellowship to the Licentiate, and he is required to subscribe the Formula in presence of the Presbytery.

5. Any Licentiate (or Probationer, as he is commonly called), on removing from the bounds of the Presbytery that has licensed him, ought to obtain an extract of his license, and to present it to the Presbytery under whose jurisdiction he has now come. In removing from one Presbytery to another, he ought always to obtain and carry with him a presbyterial certificate of character, and to present it along with the extract of license.

6. It is the duty of the Presbytery to take a special oversight of congregations in which the pastoral office is vacant. It is more particularly incumbent upon them to take adequate steps for providing that the preaching of the Gospel be continued, the Sacraments duly administered, and discipline upheld in any such congregation; to appoint one of their number as interim Moderator of its Kirk-Session; and to carry out the laws of the Church as to filling up the vacancy.

Oversight of  
Vacant Con-  
gregations.

7. During a vacancy in the pastoral office, the interim Moderator of Session is entitled and called upon, so far as he can consistently with his duty to his own flock, to execute all the spiritual functions that would otherwise belong to the stated pastor.

Duties of Interim  
Moderator.

8. It does not appear to be his duty to take any charge of convening the Deacons' Court, that duty being expressly assigned to the Clerk of the Deacons' Court during a vacancy in the pastoral office. (See Supplement to Chapter I. Part I. Section 7.) But the interim Moderator of Session, as representing the Presbytery, must be held to stand precisely in the place of the stated minister, as to the use of the church and other ecclesiastical buildings.

9. It has been the usual practice for a Presbytery to appoint each of its ministers in rotation to occupy the pulpit of a vacant congregation, supplying it in this manner once a fortnight, and leaving the intervening Sabbaths to be arranged by the congregation through Probationers. This practice is, of course, modified by circumstances, and especially by the Act of Assembly as to the filling up of vacancies in the pastoral office, and by any Act or

Supply of Vacant  
Pulpits.



CHAP. II. Rules as to the Distribution of Probationers. (See App. V. Act I. 1872, and Act III. 1874.)

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DIV. I.  
Declaration of  
Vacancy.

10. The old practice, in the case of a vacancy in the pastoral office by the death of the Minister, was for the brethren attending the funeral to assemble after it, and to appoint some one of their number to preach in the church on the next immediate Sabbath, and to declare the church vacant from the day of the Minister's death. It was also the practice of the brethren on such an occasion to settle among themselves how the vacant pulpit should be supplied till the next meeting of Presbytery, to make a minute of their proceedings, and to report them to the Presbytery. But this procedure required to be confirmed by the Presbytery, in order to render it valid. While, therefore, those parts of it which circumstances seem to render requisite may often be adhered to with advantage, it is the practice of the Free Church of Scotland to avoid any ecclesiastical action which has not the previous sanction of the Presbytery, in so far as it may be possible to do so. In particular, the Act IV. 1859 seems to imply somewhat emphatically that a vacancy in the pastoral office ought not to be formally declared from the pulpit until a Minister shall have been regularly appointed by the Presbytery to discharge that duty.<sup>1</sup> Of course, the vacancy, when thus declared, must be dated from the time of the death of the former minister.

Procedure in  
filling up  
Vacancy.

11. The procedure as to filling up the vacancy in the pastoral office is regulated in its chief particulars by Act IV. Assembly 1859, which will be found at length in the Appendix.<sup>1</sup>

Relations of  
Vacant Congre-  
gations to Sus-  
tentation Fund  
and Equal  
Dividend  
Platform.

12. In the case of a vacancy in the pastoral office in any congregation included in the number of those who receive the Equal Dividend from the Sustentation Fund, but whose contributions to that Fund are not sufficient to provide the amount of the Equal Dividend, it is required that the Presbytery, or a Committee of their number authorized by them, make a report respecting the vacancy to a special Committee of Assembly, and that the report contain such particulars as may enable the Committee to judge whether it ought or ought not to be continued on the Platform (as it is called) of the Equal Dividend. The enactments relative to this matter, defining the powers of the Committee and the Presbytery regarding it, and exhibiting the whole procedure to be adopted in it, will be found in the Appendix.<sup>2</sup> (Act VI. Assembly 1861.) It is also provided by Act VI. Assembly 1867 that these enactments shall apply to cases in which applications are made for the appointment of Colleagues and Successors. By that Act the Commission in March is required to transmit such applications to the Committee on the Platform of the Equal Dividend.

Request for  
Moderation of  
Call.

13. When a congregation of a sanctioned charge are prepared, or think themselves prepared, to call a Minister, it is usual for them to appoint a Deputation to represent them at the bar of the Presbytery, and to convey their desire that the Presbytery would moderate in a Call. It is usual for the Interim Moderator of

<sup>1</sup> App. II. 3.

<sup>2</sup> App. VII.

Session to make a report to the Presbytery respecting the condition of the congregation, the amount of their agreement as to the choice of a pastor, and their ripeness for calling one. If this report be unsatisfactory, or if the Presbytery have otherwise good reason to fear that a sufficiently harmonious call cannot be obtained, they are called upon to proceed in accordance with Section 7 of Act IV. Assembly 1859.<sup>1</sup>

14. If no want of harmony interfere to prevent the Presbytery from moderating in a Call, the Presbytery, or a Committee of their number authorised by them (Act XVII. Assembly 1881), are required to examine into the working of the Association in the congregation for the support of the Sustentation Fund, and to make a report on the subject to the Committee of Assembly for that Fund. The Presbytery are prohibited from moderating in the Call until the Committee have given their judgment. If the Committee do not sanction the filling up of the charge, the Presbytery cannot proceed, but must refer the matter for advice or decision to the Assembly or its Commission. (See Act III. Assembly 1851.<sup>2</sup>)

Examination as  
to working for  
Sustentation  
Fund.

15. When a Presbytery are prepared to moderate in a Call, they fix a day and hour for doing so. Notice of the day and hour and intended procedure must be given from the pulpit of the vacant congregation by a Minister whom the Presbytery have appointed for the purpose, seven days intervening between the notice and the day appointed. The Presbytery must moderate in a Call at large, except in cases in which clear intimation is given of an harmonious desire for a person named. In such cases Presbyteries may appoint the moderation of a Call to that person only. (See Act VII. Assembly 1868; see Appendix, p. 296, for form of notice.) At the specified time the Presbytery meet in the church of the vacant charge, and after it has been ascertained that the notice was duly given, the Moderator (either ordinary or *ad interim*) conducts worship and preaches. At the close of worship he states the object of the meeting. The form of a Call is produced and read, sometimes with a space for the name of the person to be called left blank, and sometimes with the name of the person inserted upon whose election the congregation have already agreed. The congregation are then asked, in the one case, whose name they desire to have inserted in the Call; and in the other, whether they desire or not that the form of Call produced be acted on. When the Call has been agreed to, the persons present whose names are on the Communion Roll are invited to come forward and adhibit their signatures. Act III. Assembly 1879 declares and enacts that at any meeting of a Congregation for the election of a Minister, no vote shall be allowed or recorded unless the vote is given by a member of the Congregation who is personally present, and that when a Call at large is moderated in, it shall only be subscribed by those who personally adhibit their names; but that when a Call is moderated in to an individual whose name is in the edict announcing the moderation, the Call may be subscribed on behalf of members not present when a mandate authorising such subscrip-

Moderation of  
Call.

<sup>1</sup> App. II. 3.

<sup>2</sup> App. VII.

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Production of  
Roll.Dissents from  
Call.Acceptance of  
Call by Pro-  
bationer, etc.Opportunity for  
Reasons against  
Call.Necessity of  
Libel as to some  
Objections.

tion is produced. The Communion Roll, as specially adjusted by the Kirk-Session, with a view, and attested by the Presbytery previously, to the election, ought to be produced at the time of moderating in the Call, in order that no one may be permitted to subscribe the Call as a communicant whose name does not appear upon that roll. (See Act IV. Assembly 1859, section 9.<sup>1</sup>) After the Call has been subscribed by all the communicants and adherents present who desire to subscribe it, or by mandatories, the Moderator attests it as thus subscribed. If it has been subscribed by a large number of members on the roll in proportion to the whole number, and if there be no dissents given in, the Presbytery sustain it in ordinary cases. But in the case of the Call being to a Minister of one of the Presbyterian Churches specified in Act III. 1873, the Minute must only state that the Presbytery "find the Call regular and sufficient, so far as the congregation is concerned," and the course specified in that Act must be thereafter followed. (See Forms in the Appendix, p. 300.) If there be dissents implying a serious division in the congregation, the Call cannot be sustained or found sufficient unless it be signed by a majority of the whole members on the roll, whether present or absent. Even in that case the Presbytery may find it necessary to refer the matter to the Superior Courts.

16. If the Call be sustained at the time when it has been moderated in, and if the person called be a Probationer or a qualified Minister without any fixed charge, and if he be present, the Call is put into his hands, and he is asked whether he accepts of it or not. If he be absent, it is sent to him with all convenient speed. But previously to sending it, the Presbytery may intrust it to the Kirk-Session to procure additional signatures.

17. Dissents from a Call can be received only when they are tendered or given in immediately after the Call has been attested by the Moderator. If they be accompanied by specification of reasons, either against the suitability of the person called for filling the particular vacancy, or against the proposed settlement, they must be judged on by the Presbytery, either at that meeting or at a special adjourned meeting held for the purpose. The fullest opportunity must be given to the members on the roll for stating their objections of any kind. When the objections require special investigation, the consideration of them must be adjourned, and they must be considered at a subsequent meeting, to which all parties are summoned *apud acta*, that is, they are summoned through announcement made to them in open court by the Moderator or the Clerk before the business of moderating in the Call is closed.

18. If the objections do not affect the moral character or the orthodoxy of the Probationer or Minister to whom the Call is addressed, the Presbytery may judge of them, and come to a determination respecting their validity, after hearing all parties, and taking such evidence as they may procure or think needful, without adopting such formal procedure as is requisite when grave personal charges are brought forward. But when an objection made is seen



to involve such a charge—that is, any charge affecting the orthodoxy or moral character of a Minister or Probationer, the Presbytery must insist upon the objectors either framing a libel and proceeding with it in the usual form, or abandoning the objection. Of course, if a *fama* were found by the Presbytery to prevail against the person called, it might be necessary to suspend procedure until they have disposed of it, even though no objectors should take the responsibility of framing a libel. (See Chapter V., Part III.)

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19. The Presbytery may decline to sustain the Call, either on the ground of the *number* of dissents without reasons, or on the ground of the *weight* due to the reasons or objections adduced. If any such judgment of the Presbytery be neither appealed from nor complained against in due form (see Div. III. Sect. 2), or if the judgment be affirmed by the Superior Court, the whole proceedings as to the particular Call in question fall to the ground, and a new election must take place.

Judgment  
against Call.

20. If the Presbytery sustain a Call to a Probationer, or to an ordained Minister not having a fixed charge, and if there be no appeal or complaint tendered in due form against their judgment, they proceed to take the necessary steps with a view to his induction to the pastoral charge.

21. If the Call be to a Probationer, the Presbytery take him on trials, as it is called. They prescribe to him trials of precisely the same kind with the public trials for License, viz.—five discourses, and examination in Hebrew, Greek, Divinity, Chronology, and Church History. If the Presbytery sustain these trials without appeal or complaint, or if their judgment sustaining them be affirmed by the Superior Court, or if they do not sustain the trials, and their judgment be reversed by the Superior Court, the Presbytery are in circumstances for immediately fixing the day on which the induction and ordination shall take place. If, after these trials, the Probationer called be not found qualified, and the Presbytery decline to sustain the trials, they ought to frame their Minute so as to put the Superior Court in clear and full possession of the grounds on which their judgment proceeds, and to enable a person appealing or complaining to state with distinctness his reasons of appeal or complaint. These grounds must not involve any charge of heresy, because *that*, if alleged and maintained, can be proceeded with only by libel. If the judgment of a Presbytery declining to sustain trials for ordination be not appealed or complained against in due form, or if it be not reversed by the Superior Court after appeal or complaint, intimation must be made to the Congregation that the Probationer called has not been found qualified, and that a new election must take place.

Trial of a  
Probationer  
called.

22. If the Call, which is sustained and accepted of, be to an ordained Minister not having a fixed pastoral charge, and not being a Professor of Theology, no trials being required, and there being no other ecclesiastical impediment, the Presbytery may proceed without delay to appoint the day for the induction.

Immediate  
Induction of  
Ordained Minister called.

23. If the sustained Call be to the ordained Pastor of a Congregation in another Presbytery of the Free Church of Scotland,

Commissioners  
to prosecute  
Translation.

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the induction cannot be proceeded with until a judgment has been obtained in favour of the Translation, either from the Presbytery within whose bounds that Congregation is situated, or from the Superior Court which has jurisdiction over that Presbytery. In the case of every such Call, the Presbytery immediately after sustaining it, or immediately after knowing officially that their judgment sustaining it has been affirmed by the Superior Court, proceed to commission certain of their members to prosecute the Call. The Presbytery also draw up Reasons of Translation (to be signed by the Commissioners in name of the Presbytery), and instruct the Commissioners to transmit these in writing to the other Presbytery, along with all needful documents and minutes, of which the Clerk is instructed to furnish certified copies or extracts, with the exception of the Call, which must itself be transmitted to the other Presbytery. The Congregation calling also appoint certain persons as their Commissioners. The Commissioners of the Presbytery are expected to ascertain by correspondence when the first ordinary meeting of the other Presbytery will take place. Act IV. Assembly 1882 provides that, in the procedure in Calls from one Presbytery to another, the Commissioners from the Presbytery and Congregation calling shall be received and heard only at one meeting of the Presbytery to which the Minister called belongs; and that in the event of no ordinary meeting of a Presbytery being held within three weeks of the time when the Clerk receives official intimation that a Call to one of its members has been sustained by another Presbytery, he, along with the Moderator, shall be empowered to send intimation of the Call to the Minister's Congregation, and to summon them and all parties to the next ordinary meeting, that the Call may be disposed of then.

Proceeding in  
Translation  
before another  
Presbytery.

24. The Minister called, when belonging to a Presbytery of the Free Church of Scotland, is entitled to make a statement to his Presbytery at this stage, if he see cause. But most commonly, unless the Minister have already come to a very decided determination not to accept of the Call, nothing further is done by a Presbytery of the Free Church of Scotland at the time when such a case is thus brought before it, than to summon all parties to a future meeting. The Commissioners and the Minister called, if present, are summoned *apud acta*. The Minister, if absent, ought to be specially and duly summoned in writing, with intimation of the Call addressed to him. The Reasons of Translation, or a copy of them, certified by the Clerk of their own Presbytery, must be transmitted to the Congregation of which the Minister is Pastor, that they may reply to them, if they see cause. Either the Minister himself, or some other Minister, being a member of Presbytery, ought to be instructed to intimate to that Congregation that the Call from the other Congregation has been addressed to him, that it has been laid on the Table of his Presbytery with Reasons of Translation, which they will have an opportunity of considering, and that they are hereby summoned to appear by their Commissioners at the bar of the Presbytery to state any answers they may have to give to the Reasons for Translation.

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25. On the day and at the hour appointed, the Presbytery having met, all the parties are called. The order of procedure in the hearing of parties and in the discussion of the case by the Presbytery is in accordance with general rules of order that have a more extended application; it being understood that the parties prosecuting the Translation hold the same position as to opening the case and the right of reply, which belongs to appellants and complainers in cases from Kirk-Sessions. (See Div. II. Sect. 4.)

The only peculiarities are that the Minister called is entitled to be heard at any stage of the proceedings whatever, if he express a wish to that effect; and that he must be asked to declare his mind immediately after the hearing of the other parties at the bar has been concluded. After engaging in prayer, the Presbytery decide, in the first instance, either that the Translation is expedient, and that the Call ought to be presented to the Minister; or that the Translation is not expedient, and that the Call ought not to be presented to him. If the decision be in the affirmative, and there be no appeal or complaint, and if thereafter the Minister, acquiescing in the decision, accept of the Call, the Presbytery then give formal judgment to the effect that they agree to the Translation, and appoint the Minister to await in that matter the orders of the other Presbytery. (See Act VI. Assembly 1849.<sup>1</sup>)

Minister called heard at any stage, etc.

Terms of Decision.

26. If there be an appeal or complaint intimated against a decision in favour of a Translation, the Presbytery who have come to that decision ought to instruct their Clerk to intimate to the other Presbytery, through their Clerk, whether Reasons of Appeal or Complaint have been lodged in due time or not, and also to intimate to them immediately the fact of the appeal or complaint being otherwise fallen from, if that should occur at any period after the Reasons have been duly lodged.

Proceedings in Case of Complaint or Appeal.

27. The Commissioners of a Presbytery for the prosecution of a Translation must report at the first ordinary meeting of their own Presbytery, subsequent to that meeting of the Presbytery having jurisdiction over the Minister proposed to be translated, at which a decision has been come to on the question of Translation, what the decision is, and whether it be appealed or complained against or not. If the decision has been in favour of the Translation, and there is an appeal or a complaint, with reasons, lodged in due time (of which the Presbytery prosecuting the Call must hear from the Clerk of the other Presbytery), no further step can be taken towards the induction until a judgment on the appeal or complaint shall have been given by the Superior Court. But if it be certified to the Presbytery prosecuting the Call by the Clerk of the other Presbytery, that reasons of appeal or complaint have not been lodged in due time, or that the appeal or complaint has been subsequently fallen from, or if the Superior Court shall, in due form, have intimated or caused to be intimated to the Presbytery prosecuting the Call, that they have dismissed the appeal or complaint, and affirmed the sentence in favour of the Translation,

<sup>1</sup> App. II. 3.

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then the Presbytery prosecuting the Call are placed in circumstances to enable them to fix a day for the induction.

28. If the decision of the Presbytery having jurisdiction over the Minister proposed to be translated be adverse to the Translation, it is competent and usual for the Commissioners of the Presbytery prosecuting the Call to take an appeal against the decision, leaving it to their own Presbytery to determine whether the appeal shall be prosecuted or fallen from. The Commissioners in their report mention that they have done so, and also whether any appeal was taken by the Congregation calling, and whether any dissent and complaint were taken by any member of the other Presbytery. If the meeting at which the report can be made take place within ten days from the meeting of the other Presbytery at which the decision has been given, the Commissioners usually leave it to their Presbytery to authorise them to lodge reasons of appeal or not, as the Presbytery may think fit. If there be no meeting in time for this purpose, the Commissioners ought to lodge reasons, it being always in the power of the Presbytery to fall from the appeal, and to intimate to the other Presbytery that they have done so. The Presbytery come to such judgment on the report of their Commissioners as they think most expedient. If they continue to prosecute that appeal, or if the Congregation calling continue to prosecute an appeal on their own part, or if any member of the other Presbytery continues to prosecute his dissent or complaint, no further step toward the filling up of the vacancy can be taken until a decision be obtained from the Superior Court. But if the Presbytery fall from their appeal, and if no other appeal and no complaint be prosecuted, or if the Superior Court intimate that they have affirmed the adverse decision, the Presbytery must intimate to the Congregation in due form the necessity of steps being taken for a new election.

Call to Minister  
of Charge in  
same Presbytery.

29. If a sustained Call be to an ordained Pastor of a charge within the bounds of the same Presbytery which has sustained the Call, the procedure is the same in principle with that adopted in the case already detailed. The complication of Commissioners from one Presbytery to another is avoided. In sustaining the Call, the Presbytery take care not to commit themselves to the propriety of the Translation. Due intimation is given to the Minister called, and to his present Congregation, as in the other case. Commissioners from both Congregations appear at the bar of the Presbytery on the appointed day. The Presbytery proceed in terms of the Act VI. Assembly 1849.<sup>1</sup>

Call to a  
Professor.

30. If a sustained Call be to a Principal or Professor in a Theological Hall of the Free Church of Scotland, it would seem that such a case must be brought in due form before the Presbytery of the bounds within which the Theological Hall is situated, and that due notice should be given to all parties concerned, with opportunity to appear and state their views at the bar of the Presbytery, as in the case of an ordinary translation. But it is very doubtful whether any Presbytery would consider itself warranted

<sup>1</sup> App. II. 3.

in agreeing to such a Translation, without referring the case to the Synod or Assembly, and whether any Synod would consider itself warranted in disposing of it, without referring it to the Assembly.

31. When, all obstructions having been removed out of the way, a Presbytery are prepared to fix a day for the ordination and induction of a Probationer, or for the induction of a previously ordained Minister, it is their duty to appoint one of the Ministers included in their number to occupy the pulpit of the vacant charge on a particular Sabbath, and then and there to serve the edict.<sup>1</sup> They at the same time fix the day and hour for the ordination and induction, or for the induction alone, as the case may be, so that it shall occur at an interval of not less than seven days from the serving of the edict. By the edict, public intimation is made that the day and hour named have been appointed for this purpose, and that the Presbytery will proceed in due form to the settlement, if no objection to the life or doctrine of the Probationer or Minister be previously brought forward and substantiated. It is also intimated that the Presbytery will meet at a specified time, and at the Church, for the purpose of ascertaining whether any such objections will be brought forward and substantiated, or not. The usual practice is to hold this meeting at an hour not long before that fixed upon for the settlement.

32. At the time named in the edict, the Presbytery, having been constituted, call for what is designated 'the return of the edict,' an expression which implies a report by the officiating Minister that it has been duly served. They then cause their officer to make proclamation at the most patent door of the Church, in terms of the edict, and to report that he has done so. Any objections at this last stage must be substantiated immediately to the satisfaction of the Presbytery. A formal libel is not required; substantiated objections would arrest procedure. The bringing forward of objections in connection with the edict is a rare occurrence. When no objections are given in, or when they cannot be proved *instantly*, it is the duty of the Presbytery to proceed with the ordination and induction, or with the induction alone, according to appointment.

33. In proceeding to an ordination or induction, the Moderator conducts public worship in the usual manner. At the close of it he reads a narrative of the proceedings since the occurrence of the vacancy, with reference to the filling of it up. He then calls upon the Pastor-elect, who stands and answers the appointed questions (see Appendix II. 1). He is then required by Act II. 1874 to subscribe the Formula, in presence of the Congregation. The answers having been satisfactory and the Formula having been signed, the Pastor-elect, if a Probationer, kneels, and the Moderator, coming down from the pulpit, ordains him to the ministry with solemn prayer and imposition of hands. It is the practice for all Ministers present to stand around and lay their hands on his head. The ordination prayer having been concluded, the Moderator formally receives and admits the new Minister, in the name of the Presbytery, and by authority of the Divine Head of the Church,

CHAP. II.

PART II.

DIV. I.  
Serving of Edict.

Objections at last  
Stage.

Proceedings at  
Ordinations and  
Inductions.

<sup>1</sup> App. XI. 1.



## CHAP. II.

## PART II.

## DIV. I.

to the pastoral charge of the Congregation, and, along with the other members of Presbytery, gives him the right hand of fellowship. Thereafter the Moderator returns to the pulpit. In the case of a previously ordained Minister, the Moderator does not leave the pulpit, except to give the right hand of fellowship; but, immediately after obtaining satisfactory answers to the questions, and after the signature of the Formula, he receives and admits the Minister to the pastoral charge. It is usual for the admission, in this case, to be preceded or followed by prayer. In both cases, the Moderator in conclusion delivers a suitable address (1) to the newly-admitted Pastor, and (2) to the people. In some cases, these addresses have been delivered by other members of Presbytery, specially appointed for the purpose. But the old and most approved practice is for the Moderator to conduct the whole services. At the close of public worship the people have an opportunity of welcoming their Minister on retiring from the Church. Thereafter his name is added to the roll before the adjournment of the Presbytery.

Intimation to  
other Presby-  
teries.

34. It is the duty of a Presbytery, after inducting to a charge within their bounds the Minister of a charge under the jurisdiction of another Presbytery, whether belonging to the Free Church of Scotland, the English Presbyterian Church, the Presbyterian Church of Ireland, or the United Presbyterian Church, to give immediate intimation through their Clerk to that Presbytery that the induction has taken place.

Ordination to  
Colonies,  
Missions, etc.

35. Ordination, without reference to a particular pastoral charge, or without reference, at least, to some position or function held to be equivalent to that of a particular pastoral charge, is contrary to the practice of the Church. But a Presbytery in Scotland may be called upon to ordain a Probationer who has been appointed to a pastoral charge in the Colonies, when there is no local Presbytery having jurisdiction over that charge; and, in similar circumstances, Missionaries to foreign parts are ordained before they proceed to their spheres of labour. In either of these cases, it is the duty of the Presbytery to satisfy themselves with respect to the nature of the appointment, the position of the parties making it, the sphere of action proposed to be entered on, and the provision arranged or in prospect for the due support of the Minister or Missionary, after he has entered on it. If they be satisfied regarding these points, it is competent for them to proceed. So far as trials and the act of ordination are concerned, they must take the same steps as in ordinary cases. The serving of an edict in the usual manner is of course dispensed with. But consistency of principle would seem to require public notice of the Presbytery's intention to be duly given, that any one may have sufficient opportunity to bring forward and substantiate an objection to the life or doctrine of the person proposed to be ordained.

Induction of  
Professors.

36. Professors of Theology, having been previously appointed by the General Assembly (see Part I. Sect. 5, and Chap. IV. Part II. Sect. 13), are inducted to their offices by the Presbyteries of the bounds in the same manner in which Ministers are inducted into

their charges (see Act V. Assembly 1852).<sup>1</sup> Before ordaining a Probationer who has been appointed a Professor, the Presbytery must subject him to the usual trials for ordination. In such a case, they must consider the adaptation of his gifts for the Professorship which he is called to occupy, in order that, being found qualified for the particular office, he may be ordained a Minister of the Gospel with a view to his induction. In discharging this part of their duty, they must, of course, give all due weight to the fact that he has been already selected by the Supreme Court of the Church to occupy the Professorship.

37. It lies with the Presbytery within whose jurisdiction a pastoral charge is situated, to receive, in the first instance, any representation for the appointment of a Colleague and Successor to the Pastor of that charge. Such a representation may be based either upon the partial inability of the Pastor to discharge his functions, through age or infirmity, or both; or upon special considerations connected with the character and circumstances of the charge. It must proceed from the Congregation, with consent of the Pastor himself. It may be intimated by means of Minutes of Session, Deacons' Court, and congregational meetings. Competent evidence must accompany the representation, with respect to the alleged grounds of it. For example, if the ground be the state of the Minister's health and strength, sufficient medical testimony must be produced. If, in order to carry out the contemplated appointment, assistance be asked from the Aged and Infirm Ministers' Fund, this request, and the grounds of it, must be brought before the Presbytery, along with the representation on the subject of a Colleague and Successor. When all the materials for judgment in any such case have been fully set before the Presbytery, and parties have been regularly heard on the subject at the bar, the Presbytery are called upon to give a deliverance with respect to the suitability, practicability, and desirableness of the proposed appointment, viewed in connection with the pecuniary and other arrangements by which the Congregation and the Minister wish to have it accompanied. All these arrangements must be taken into very careful consideration in coming to a judgment.

38. The Presbytery cannot give effect to their own judgment with reference to allowing a Congregation the liberty of calling a Colleague and Successor to its Pastor; but that judgment must take the form of a recommendation and application to the General Assembly. (See Division III. Sect. 5, and Appendix III. 3.) On this account, it is needful that the representations and requests from the Congregation be brought to the Presbytery in time to enable them to dispose of the matter, with a view to having the application and all needful documents transmitted to the Clerks of Assembly on or before the last Wednesday of February, and presented to the Ordinary Commission of Assembly at its meeting on the first Wednesday of March in each year. (See Act VIII. 1862.)

39. The subject of pecuniary provisions for the support of Colleagues and Successors, as well as of aged and infirm Ministers,

CHAP. II.

PART II.

DIV. I.

Function as to Applications for Colleagues and Successors, etc.

Time for bringing Application to Presbytery.

Pecuniary Provisions for Colleagues, etc.

<sup>1</sup> App. IV.

## CHAP. II.

## PART II.

## DIV. I.

Sanction of  
Agreement  
between Parties.

is very exactly regulated by Acts of Assembly, and may be most usefully exhibited in a separate form through a section of the Appendix. (See Appendix VII. 2, Act XI. 1863.)

40. After the General Assembly have granted leave to a Congregation to call a Colleague and Successor to their Pastor, and before the actual calling and induction of one, an agreement may be come to between the parties, viz. the Pastor, the Session, the Deacons' Court, and the Congregation, with respect to the share which the senior Pastor shall continue to occupy in the duties and privileges of the pastorate. This agreement may be competently sanctioned by the Presbytery, and recorded in their Minutes. But, apart from such agreement, the senior Pastor is always entitled to take into his own hands an equal share of the work with his Colleague, and to alternate with him in the exercise of every function belonging to the office of Pastor, except in so far as the General Assembly may have expressly limited his sphere of action. Any limitation is, for the most part, left to be arranged by agreement under the view of the Presbytery. And such agreement, if intimated to the person elected as Colleague and Successor, before he has accepted of the Call, may be held binding upon him as well as upon the other parties. The matter is often harmoniously and happily arranged between the colleagues personally, without any more formal adjustment. The Minutes of Session, or of Deacons' Court, or of Congregational Meetings, or of Presbytery, which have been acquiesced in by all parties, may sometimes be such as to involve the practical retirement of the senior Pastor from all interference with the affairs of the Congregation. But if the General Assembly have simply granted leave to the Congregation to call a Colleague and Successor to their Pastor, the latter has still a right to his seat in the Church Courts, and to every other privilege of his office, which he has not consented to relinquish. In all cases in which no special agreement has been minuted before the settlement of a Colleague and Successor, it is understood that the junior Colleague is prepared to undertake the whole pastoral and pulpit duty, or any portion of it, however great, as soon as it has been ascertained that the age or infirmities of the senior Colleague prevent him from undertaking any portion, or more than a small portion, of it.

Platform of  
Equal Dividend.

41. It was determined by Act III. Assembly 1865 that all cases of applications for Colleagues and Successors, in Congregations that are not self-supporting by their contributions to the Sustentation Fund, must be brought under the view of the Committee on the Platform of the Equal Dividend, in the same manner as if they were cases of vacancies, according to Act VI. 1861.<sup>1</sup>

42. In all other respects, the course of procedure by the Presbytery, with reference to the ordination and induction, or the induction alone, of a Colleague and Successor, is the same with that already detailed in the case of a vacant charge.

Resignations of  
Ministers.

43. A Minister who wishes to resign his pastoral charge, from ill-health, old age, or other circumstances not affecting his minis-

<sup>1</sup> App. VII. 1.



terial character, must tender his resignation to the Presbytery under whose jurisdiction he is placed. The Presbytery, either when alone, or through a Committee, deal with him as to the reasons of the proposed resignation. It is also reasonable that due notice should be given to the Congregation of what is intended by their Pastor. If the Presbytery find the alleged reasons unsatisfactory, or if any circumstance or *fama* be made known to them which requires investigation, they cannot accept of the resignation until it be ascertained that there is no ground for bringing their brother under the censures of the Church. But if nothing objectionable appear with respect to his procedure, and they find him continuing to be conscientiously persuaded that it is his duty to follow out his intention, it is their duty to accept of his resignation, and to take immediate steps for declaring the pastoral charge of his Congregation vacant.

44. Ministers who have thus retired from their charges are accounted *emeriti*. They are not members of Presbytery unless expressly allowed to be so by a specific deliverance of the General Assembly; but they retain their *status*, and may be employed in any work belonging to that *status* which they are capable of performing. The pecuniary arrangements with relation to Retired Ministers may be best seen in the Appendix.<sup>1</sup>

Position of *Emeriti* Ministers.

All Ministers not having pastoral Charges are eligible as Ruling Elders in the Congregations to which they attach themselves as communicants.

45. It lies with the Presbytery to consider the merits of any case within their bounds, in which pecuniary aid is sought to enable a Congregation to provide an aged and infirm Minister with an Assistant. They are called upon to find either that the case ought, or that it ought not, to be entertained favourably. If their finding be in its favour, they are called upon to transmit an application on its behalf to the Assembly. Such cases must be laid before the Presbytery in time to have the applications considered and transmitted to the Clerks of Assembly a week previously to the Meeting of Commission, on the first Wednesday of March. (See Act XI. 1863.<sup>2</sup>)

Aid for Assistants.

46. The old law as to Privy Censures in Presbyteries was, that, twice a year, at a meeting of Presbytery, each Minister should be removed in succession, in order that his brethren might consult together as to whether or not there was occasion for admonishing or censuring him in a friendly manner. He was then called in, and the result communicated to him. Although the exactness of this practice has fallen into abeyance, the spirit of it still pervades the Presbyterianism of the Church. It is still held to be the duty of Presbyteries to deal with the members in a friendly manner with respect to their shortcomings, so as to avert, by timely admonition, the necessity of more formal procedure at a future date. It is still held to be the duty of the brethren to stir one another up in the common faith.

Privy Censures.

<sup>1</sup> App. VII. 2.

<sup>2</sup> App. VII. 2.

## CHAP. II.

## PART II.

## DIV. I.

Suspension or  
Deposition.

Censures, etc.

Readers and  
Catechists.Preaching  
Stations.

47. The solemn function belongs to the Presbytery, in the exercise of discipline, to pronounce sentence of suspension or deposition against a Minister or a Probationer under their jurisdiction, when they find it necessary to do so, in accordance with the Word of God, and with the Rules of the Church. It is also their province, when they find occasion, to make use of less severe censures, such as public or specially serious admonition or rebuke. Particulars as to Discipline will be found in Chapter V.

48. Although the Free Church of Scotland gives no encouragement to any encroachment on the functions of the pastoral office by persons not set apart to that office, she has permitted the employment of persons as Readers or Catechists, with the view of meeting the necessities occasioned by a pressing emergency, or by a deficiency in the number of ordained Ministers and licensed Probationers. The persons selected for this purpose have, for the most part, been Elders, Students of Theology, or Teachers. It has been required that they be approved of by the Presbyteries, and associated with, or superintended by, particular Ministers; that the spheres of action be fixed by the General Assembly's Home Mission Committee, on the recommendation of Presbyteries; that, when obliged to conduct public worship on Sabbath, they be instructed to read a portion of Scripture, together with some suitable discourse, or portion of a religious work; and that they be called upon, on week-days, to visit the families, catechise the young, and attend to the sick and dying. The General Assembly has expressly declared that there was no intention, by the permission and requirements as to Readers or Catechists, of instituting a permanent or distinct office, but that the design was simply to regulate, in an orderly way, the needful provision for temporary difficulty.

(See Act XIX. Assembly May 1843, and Act XXXV. Assembly 1845.)

49. A Congregation for the regular worship of God, and the preaching of the Gospel, may be formed and kept up under the superintendence of the Presbytery, without its having been constituted as a pastoral charge. It may be maintained under the name of a Preaching Station until its condition shall appear sufficient for enabling it to call a Pastor. Such Stations are usually served by Probationers. In some of them, especially in the Highlands, the instrumentality of Catechists has been employed. When aid in the support of a Station is required from the Home Mission Fund of the General Assembly, it must be conducted under the direction of the Home Mission Committee, but so as not to interfere with the constitutional jurisdiction of the Presbytery over it. The setting up of Preaching Stations in suitable localities is considered by the Church to be one of the most important means for the advancement of the Home Mission cause. Where no Kirk-Session has been formed in connection with a Station, sealing ordinances can be dispensed in it only through express appointment by the Presbytery, unless the Congregation have been regularly placed under the jurisdiction of a neighbouring Kirk-Session. If the authority of the

Presbytery be required, they appoint a Minister to preside, aided by certain elders, whom they name.

50. According to Act XIII. 1863,<sup>1</sup> it remains with Presbyteries to arrange in regard to the appointment of Elders and the establishment of Kirk-Sessions for local discipline and management in Preaching Stations within their bounds, it being understood that a Minister of the Presbytery shall act as the Moderator of every such Kirk-Session, and that it has no right of representation in the Presbytery. Whenever the Presbytery deem it expedient, the elders of such Stations may still be connected with regularly established Kirk-Sessions.

51. The recognition of a Congregation as entitled to the position of a Pastoral Charge, so as to be enabled to call a person to be their Pastor, belongs properly, and in its spiritual aspect, to the Presbytery of the bounds; their judgment, of course, on this, as well as on every other question, being subject to review by means of appeal or complaint. But the upholding of so large an institution as the Free Church of Scotland, dependent in so many ways upon Central Funds, has made it requisite that in some matters general rules should be observed, which can be more efficiently and consistently maintained by the authority of the General Assembly than by the Presbyteries separately. The addition of pastoral charges in any part of the Church is one of these matters. It has, accordingly, been decided by the General Assembly, with consent of a majority of Presbyteries, that, after a Presbytery has formed an opinion in favour of the admission of a new Congregation as a pastoral charge, it shall record and transmit its opinion, along with a full statement of the case, for the consideration of the General Assembly, who alone shall have the power of sanctioning the Charge. (See Act VII. Assembly 1849, and Division III. sect. 8.<sup>2</sup>)

52. The Presbytery has inherently the power of appointing special diets of worship to be held; special fast-days and special days of thanksgiving to be observed; and special collections for particular objects to be made, in all the Congregations under its jurisdiction. But this power requires to be exercised with great discretion and abstinence, partly for the sake of avoiding undue interference with the judgment of Kirk-Sessions, founded upon local knowledge, and partly from the relation of the Presbytery to the Superior Courts, and the arrangements of the General Assembly. It thus becomes necessary in a Church so extended and so systematically ordered as the Free Church of Scotland, that the inherent functions of Presbyteries in the matters here referred to should be very rarely put into independent operation, even when they are not restrained by positive Acts or instructions of the General Assembly. But the Presbytery is entitled, both by the inherent character of its relation to the several Congregations within its bounds, and by long-established practice, to require a reasonable amount of contribution from each of these Congregations, or from each Deacons' Court, toward the necessary presbyterial expenses.

CHAP. II.

PART II.

DIV. I.

Kirk-Sessions at Stations, etc.

Sanctioning of Pastoral Charges

Special Diets of Worship, Collections, etc.

<sup>1</sup> App. II. 2.

<sup>2</sup> App. III. 3.

## CHAP. II.

## PART II.

## DIV. I.

Ecclesiastical  
Buildings, etc.

Committees.

53. Particular functions have been assigned to Presbyteries in relation to ecclesiastical buildings, including places of worship, manse, and schoolhouses. But these functions may be best explained in an Appendix.<sup>1</sup>

54. The Presbytery may appoint Committees of its number for the more careful and minute consideration of those portions of business which seem to require such appointment, it being understood that the Committees are to report to the Presbytery, who will record their own judgment upon the subjects of the several reports.

DIVISION II.—*Department of Review.*Review of  
Session Records.

1. The Presbytery may be called to exercise the right of review, through its periodical examination of the Records of Kirk-Sessions and Deacons' Courts. According to the old law of the Church (see Act, Sess. 22, 1639), it was required that the Session Books be presented once a year to the Presbyteries, and the same requirement as to the Records of Deacons' Courts is made by Act VII. Assembly 1846.<sup>2</sup> It has been already mentioned that a copy of the Communion Roll, revised by the Kirk-Session, and signed by the Moderator and Clerk, must be annually sent to the Presbytery. (See Chap. I. Part II., and Act XVIII. Assembly 1844.<sup>3</sup>) A recent Act requires that an accurate Communion Roll, including the names of all persons entitled to be counted at the last Communion previously to the month of March, or a corresponding list of Adherents above fourteen years of age, be approved of annually by the Presbytery, as a condition of a return being made as to the Congregation by the Presbytery to the Assembly, to the effect of giving the Minister a right to share in the Surplus of the Sustentation Fund. (See Act VI. 1870, Appendix I. 15.) It is the duty of the Presbytery to give instructions to the Kirk-Sessions and Deacons' Courts, with a view to compliance with these requirements. It is the usual practice, after receipt of the Books and Rolls, to appoint a Committee or Committees to examine and report upon them. When considering such reports, or when inspecting for itself the Books and Rolls, the Presbytery may exercise the right of review in several ways. For

(1.) It must pronounce a judgment of approval or disapproval as to the correctness and accuracy with which each Record is kept, and with which each Communion Roll is drawn out, requiring serious errors to be rectified, and pointing out deficiencies or mistakes of a less important character, in order that they may be avoided for the future.

(2.) It may intimate either to Sessions or Deacons' Courts any improvement which ought to be adopted in their modes of conducting business.

(3.) It may find that any deliverance of a Kirk-Session is erroneous, as exhibited in the Minute. It may reverse any such deliverance, on the ground of the erroneousness thus exhibited. Or it may declare a Sessional judgment to be null and void, because it

<sup>1</sup> App. VI.<sup>2</sup> App. III. 2.<sup>3</sup> App. VI.

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## DIV. II.

Review of  
Session Records.

was *ultra vires*, or in opposition to the laws of the Church. If it be too late for a simple reversal to redress any injustice, the Presbytery may give instructions to the Kirk-Session for affording such redress as the laws of the Church may still render practicable. The Presbytery may also order passages of the Session Record to be deleted. The deletion may be carried out either by the Session or by the Presbytery Clerk, under the orders of the Presbytery. The mode of deletion is either by having the deleted words crossed, so as to be unintelligible, and the crossings marked as deleted on the margin, with an attestation by the person deleting, or by having leaves cut out of the Record, and the number of pages so dealt with being formally entered on the Record. In either case, the Minute of Presbytery ordering the deletion must be inserted in the Record. Before pronouncing any judgment with respect to any deliverance of a Kirk-Session, or before ordering the Minutes of a Kirk-Session to be altered, the Presbytery must summon the Kirk-Session to the bar, and hear them as parties.

(4.) The Presbytery, in considering the Record of a Deacons' Court, may find that the procedure of that Deacons' Court has been *ultra vires*, or contrary to the Acts of Assembly, and may declare it to be null and void, or order Minutes to be altered, on either of these accounts. Before doing so, however, it must summon the Deacons' Court to the bar, and hear them as parties. The Presbytery have no power of judgment with respect to those details of practical procedure in the Deacons' Court which are within their province, and consistent with the Acts of Assembly.

2. Particular matters may be brought under review of the Presbytery by means of Petition. The exact order of Presbyterian government requires that every case from an Inferior Court should be introduced to the Superior by a petition. This order is observed in the General Assembly with reference to Appeals, Complaints, and References, which must all be brought under notice by an accompanying Petition to the Committee on Bills. But the same order is not enforced in the practice of Presbyteries. Petitions to a Presbytery are practically confined to those matters which can be introduced in no other way.

Petitions to  
Presbyteries.

(1.) The Presbytery ought not to receive a Petition with reference to any matter which ought to have been previously brought before the Kirk-Session, unless the Petition contain a statement that the Kirk-Session, having come to a decision regarding the matter referred to, have refused to receive and record an Appeal or Complaint tendered against their judgment. But a Petition to the Presbytery is the proper remedy for such refusal. Before proceeding to hear the Petitioners in such a case, the Presbytery must summon the Kirk-Session to the bar, that they may be heard for their interest.

(2.) When disputes or difficulties have arisen in a Congregation, which do not involve any serious personal charge, but which cannot be constitutionally adjusted by the Kirk-Session, in consequence of the Minister being concerned in them, or from other causes, it is competent for any parties connected with the Congregation to



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petition the Presbytery on the subject. The Petition may ask for a Presbyterial visitation, or for any other method of interference by the Presbytery that may be competent and suitable. Before the Petition can be disposed of, all parties referred to in it, or affected by it, must be summoned, with due notice, to the bar, that they may be heard for their interests.

(3.) The constitutional method of bringing before the Church any question seriously affecting the character or the orthodoxy of a Minister or a Probationer is by a Petition to the Presbytery, unless such question be originated in the Presbytery itself, or in the Synod or General Assembly; or unless the parties otherwise raising it take upon themselves the responsibility of preparing and tabling a Libel for the consideration of the Presbytery. (See Chap. V. Part III.)

(4.) A Petition to the Presbytery is competent, either by the Kirk-Session, or by the Deacons' Court, or by any member of the Congregation, or by any person concerned about its prosperity, if the object aimed at be one which the Presbytery alone can accomplish, or which must be originated in the Presbytery. Under this head may be reckoned Petitions for the institution of Stations, for the sanctioning of Charges, for the creation of Kirk-Sessions, and for the erection of Churches or Manses.

(5.) A Petition is competent which complains of any procedure in a Deacons' Court when the complaint is shown to be on the alleged ground that the procedure was *ultra vires*, or contrary to the Acts of Assembly.

*N.B.*—A Presbytery may reject any Petition, without calling or hearing parties, on the ground that it is unsuitably or disrespectfully worded, or, without hearing parties *on the merits*, on the ground that its prayer cannot be competently granted by the Presbytery.

3. A Presbyterial Visitation may be appointed by the Presbytery, either of its own accord, or in consequence of a Petition from the Kirk-Session, the Deacons' Court, or other parties connected with a Congregation. According to the Church order maintained at the period of what is called the Second Reformation, Presbyteries were required to hold such visitations once a year in all the parishes. (See Act, Assembly 1638, September 23, 24.) At the commencement of last century, Presbyteries were recommended and enjoined to hold them frequently. (See Act XVI. Assembly 1706.<sup>1</sup>) Shortly before the Disruption, they had been revived. A Report as to the method of carrying them out was approved of by the Assemblies in 1845 and 1846, and appended to the Acts of those Assemblies. Presbyteries were recommended to be guided in their procedure by that Report.<sup>2</sup>

(1.) The object of Presbyterial Visitation, when prosecuted at the instance of the Presbytery itself, in accordance with the law of the Church and the recommendation of Assemblies, is not of an inquisitorial character. Its purpose is to strengthen the hands of the Minister, Elders, and Deacons, and to give the benefit of special

<sup>1</sup> App. III. 3.<sup>2</sup> App. III. 3

advice and counsel to the Congregation as well as to the office-bearers. It has, therefore, been recommended that, when this work is entered on, all the Congregations within the bounds should be visited according to some fixed rotation.

(2.) In following out the suggestions of the Report approved of in 1845, the Presbytery furnishes the Kirk-Session and Deacons' Court beforehand with a list of the queries intended to be put, gives at least ten days' public notice to the Congregation, meets first of all in private with the Session and Deacons' Court, receives written answers to the questions transmitted, and enters into friendly conference with them, accompanied by devotional exercises. The Presbytery then adjourns to the Church, where the Congregation is convened. A suitable sermon is preached by the Moderator. After public worship, the written answers to queries and the judgments of the Presbytery are read to the people, and suitable exhortations are addressed to them.

(3.) The topics of information to be sought by the Presbytery relate (1) to the Statistics of the Congregation, regarding the Office-bearers, the Members, the Adherents, the Buildings, and the Finances; and (2) to its spiritual condition, as shown by the attendance upon Ordinances, at Prayer-meetings, and at Sabbath-schools; or by the general state of religion in connection with the absence or prevalence of particular sins, or with the manifestation of Divine grace in turning sinners from darkness to light.

(4.) Even when the course thus indicated is not literally followed in particulars, the substance of what it embodies may be profitably carried out. Much must be left to the discretion of Presbyteries. Inquiries as to the spiritual state of Congregations and the general state of religion in their localities have sometimes been profitably pursued by Presbyterial Conferences, to which Elders and Deacons have been invited, and by corresponding Sessional Conferences, to which Deacons have been invited, without any actual visitations by the Presbytery.

(5.) Apart from any general system of Presbyterial Visitation, it is competent, and may sometimes be extremely desirable, for a Presbytery to appoint a Special Visitation for a particular Congregation, when circumstances calling for such visitation have been forced upon their notice. But this course can be justified only when the circumstances are clearly such as to call for Presbyterial interference.

4. It is the duty of the Presbytery to take into their consideration, at the first convenient opportunity, any case of Reference, Complaint, or Appeal, which has been duly transmitted to the Presbytery Clerk, with respect to the procedure of any Kirk-Session within the bounds. The order of procedure is as follows, viz. :—

References, Complaints, and Appeals.

(1.) The Clerk of Presbytery reads the documents that have been transmitted in the case.

(2.) Parties are then called, and the names of the persons who severally appear for each of the parties are minuted as so appearing. If any party having been duly cited do not appear when called, and

Order of Procedure.

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no adequate cause for non-appearance be assigned, that party is held as having given up the cause, and unless the Presbytery find reason otherwise for an opposite course, a decision may be given against that party in absence.

(3.) After the names of parties have been minuted, and if the Presbytery be satisfied that the documents are sufficient to bring the case before the Court, and that all parties have been duly cited, the next step is to hear their representatives at the bar.

(4.) In the case of a Reference, the Kirk-Session are a party only with respect to the preliminary question whether or not the case ought to have been referred; or, in other words, whether the Reference ought now to be sustained or dismissed by the Presbytery. All the parties are entitled to be heard upon this question. If there be any Appeal or Complaint against the Reference, the Appellants or Complainers are heard *as such*. There are some cases of Reference in which the question of sustaining the Reference or not must depend entirely on the question whether the previous procedure of the Kirk-Session has been regular or not, and whether their Minute brings up the matter in a correct form or not. These are special cases of Discipline which the law absolutely requires to be referred by the Kirk-Session to the Presbytery. (See Chap. V. Part II.) In all other cases the Presbytery is called upon to judge freely, after hearing parties, whether there appear to have been good reasons for the Inferior Court referring the case, rather than deciding it themselves. The Presbytery either *sustains* or *dismisses* the Reference. If it dismiss the Reference, it may also censure the Kirk-Session for having referred the case without good cause. If it sustain the Reference, then the Kirk-Session cease to be parties; their representatives leave the Bar; and the Moderator and the duly-commissioned Elder are entitled to vote as Members of Presbytery upon the case, when it is taken up upon the merits.

(5.) The Presbytery determines for itself as to the number of speakers whom it will hear for each party at the bar. Having often more time at its disposal than either the Synod or the General Assembly, it does not always feel itself obliged to maintain such rigid rules upon this subject as are laid down in the Standing Orders of the Assembly. But whatever rule it may adopt must be an impartial one.

(6.) The Presbytery usually hears one or two speakers for each party concerned, *beginning* in the cases of Appeal or Complaint with the Appellants or Complainers; or, in cases of Reference, at the preliminary stage, when there is no Appeal or Complaint against the Reference, with the party supporting the Reference, who is called upon to *state* it; or in such cases on the merits, when there is a question in dispute, with the party who originated that question in the Inferior Court; and *ending*, in each of these several instances, by hearing one speaker from the same party in reply. As a Reference brings up all parties, the state of parties, when the merits are taken up by the Presbytery, must be the same as it was before the Kirk-Session.



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(7.) When the interests and pleas of two parties are seen, on the face of the case as presented, to be in substance the same, the Presbytery is entitled to deal with them as one party, with respect to the hearing of speakers.

(8.) After the hearing of parties, an opportunity is given to Members of Presbytery for putting questions to the parties at the bar.

(9.) Parties are then removed.

(10.) The Presbytery proceeds to deliberate and to pronounce its own judgment, either unanimously, or after a vote has been taken. (See Supplement to Chapter II. Part II.)

(11.) The judgment may be expressed in such terms as the Presbytery thinks most suitable; but in every case of Appeal or Complaint, in which a judgment on the merits is pronounced by the Presbytery, the judgment must expressly sustain or dismiss the Appeal or Complaint, and must expressly reverse or affirm the judgment of the Kirk-Session, whatever additional words or sentences the Presbyterial Deliverance may contain.

Order of Procedure in Appeals.

(12.) Parties are called in, and the judgment of the Presbytery is intimated to them.

(13.) If a party at the bar, after hearing the intimation, acquiesce in the judgment, it is usual for him to intimate his acquiescence, and to have it minuted. If he does so in due form, he is entitled to extracts. (See Div. III. (6) and Supplement to Chapter II. Part. II.)

(For what may otherwise follow upon the judgment, or upon the intimation of it, see Division III.)

*N.B.*—The statements here made as to the hearing of the parties at the bar apply to the hearing of parties in cases of translation, *mutatis mutandis*. (See Division I. p. 47.) They apply also to the hearing of parties in Petitions.

### DIVISION III.—*Department of Special Relations to the Superior Courts.*

1. A Presbytery cannot make any change upon its name, the particular charges and localities under its jurisdiction, the constitution of its membership, or its chief place of meeting, which is called the Presbytery Seat. To obtain a change in any of these arrangements, it must present a special Petition to the General Assembly. With a view to holding any meeting during the sittings of the Provincial Synod to which it belongs, or during the sittings of the General Assembly, a Presbytery must petition the Synod or the Assembly respectively for leave to do so.

Petition as to Change of Name, etc.

2. Any part of a Presbytery's procedure is liable to review by the Superior Courts.

(1.) The Presbytery is responsible to the Synod for the correctness and accuracy of a permanent Record in which their Clerk is required to copy out their Minutes. And it is competent for the Synod, in their annual or half-yearly examination of the Presbytery Records, to take notice of any irregularity or error, not only in the language or form, but also in the substance of the Minutes, and to

Responsibility to Synod as to Record.

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exercise their powers of review thereanent. It is thus the duty of a Presbytery to watch carefully the condition of its own permanent Record. Not only must the facts as to the constitution and regular closing of each meeting be exactly stated, as well as the approval of each preceding Minute, but the names of all the members present must be recorded, and a statement must appear as to whether the chair was taken by the Moderator, or by any other person as Interim Moderator. There must be no blottings or interlinings in the Record. If anything be deleted, it must be marked in the margin; and any word or words omitted must be written on the margin, and attested there by the initials both of the Moderator and Clerk. Every Minute ought to be signed in the Record both by the Moderator and Clerk. Even when a Scroll Minute has been signed by a person acting as Clerk *ad interim*, the same Minute in the Permanent Record ought to have the signature attached to it of the permanent Clerk, in addition to that of the Clerk *ad interim*. In circumstances which, arising through a meeting being held at a very great distance from the Presbytery seat, make it difficult for a Clerk *ad interim* to have access to the Permanent Record, his signature in that Record may be exceptionally dispensed with, provided it be attached to the Scroll Minute, and provided the permanent Clerk, while signing in the Permanent Record, preserve at the same time the Scroll Minute *in retentis*. No erasure of the Minutes can be made without the authority of the Synod or Assembly. A Presbytery cannot reverse or rescind any of its decisions; but, in order to obtain any alteration, it must petition the Synod or Assembly.

## Dissents

(2.) When any judgment or resolution has been come to by a Presbytery, any member of the Court who is present and has objected to that judgment or resolution, may enter his dissent from it, provided he does so immediately after the decision has been announced, and before other business has been taken up. If the dissent be accompanied by reasons, they are recorded in the Minute along with the dissent. But if reasons are given in at a subsequent stage or meeting, they are not recorded, but are simply kept *in retentis*; or, in other words, they are preserved by the Clerk among the Presbyterial documents. Other Members of Presbytery, who, being present, have joined in the objection to the decision, may adhere to the dissent at any subsequent stage or meeting. The effect of such a dissent, whether with or without reasons, is to save the member or members dissenting from all responsibility for what has been done, whether in the light of his or their own conscientious sense of duty to God, or in any view which may afterwards be taken of the matter by the Provincial Synod or by the General Assembly. For,

## Dissents and Complaints.

(3.) Any member of Presbytery, when dissatisfied with a decision, may immediately after its announcement dissent, and protest for leave to complain against it to the Provincial Synod, if the meeting of that Court intervene between the time of the Presbyterial decision and the meeting of the General Assembly, or to the General Assembly itself, if there be no such intervention. In other respects, the same rules apply on the subject of dissents and complaints

which have been already stated in reference to Kirk-Sessions (see Chapter I. Part II. Section 18) ; the Presbytery Clerk occupying the place in relation to them which belongs to the Session Clerk, and the Synod or Assembly Clerk occupying that which belongs to the Presbytery Clerk in relation to dissents and complaints against judgments of a Kirk-Session.

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(4.) Appeals are competent against Presbyterial judgments, and are taken and carried out in the same way and according to the same rules which have been described in relation to appeals against judgments of Kirk-Sessions, the same substitution being made of the Presbytery Clerk for the Session Clerk, and the Synod or Assembly Clerk for the Presbytery Clerk. (See Chapter I. Part II. Section 19.)

Appeals.

(5.) A Presbytery may refer a matter for advice to the Synod, or, if there be no intervening meeting of Synod, to the General Assembly. The rules in the case of Kirk-Sessions, with the substitution already mentioned, apply here also. (See Chapter I. Part II. Section 20, and also paragraphs (3) and (4) of Chapter II. Part II. Division III. Section 2.) Presbyteries are positively required, before moderating in a Call in any case of serious division in a Congregation regarding the choice of a Pastor, to refer the matter to the Superior Courts for advice. (See Act IV. Assembly 1859, Section 7.<sup>1</sup>) In cases of Libel against Ministers, two special grounds have been allowed by Acts of Assembly, upon which it is held competent for Presbyteries to refer such cases at a particular stage to the Superior Courts. (See Acts IX. and X. Assembly 1854,<sup>2</sup> and also Chapter V. Part III.)

References.

(6.) Complainers and Appellants are entitled to such extracts from the Minutes of Presbytery as they require to enable them to bring their Complaints or Appeals before the Superior Court. The same rules apply as in the case of extracts from the Minutes of Kirk-Sessions by parties complaining or appealing. (See Chap. I. Part II. Section 24.)

Extracts.

(7.) If a Presbytery refuse to receive or record any Complaint or Appeal, it is open to the party to petition the Synod or Assembly with reference to such refusal.

Petition against refusal to record Complaint or Appeal.

(8.) One Presbytery cannot interfere with or review the procedure of another Presbytery. As in the case of Kirk-Sessions (see Chapter I. Part II. Section 26), the only regular mode of redress for encroachment by one Presbytery on the province of another, is for the Presbytery which feels that its jurisdiction has been interfered with to petition the Synod, or, if no meeting of Synod intervene, the General Assembly. Of course such a Petition cannot be received by any Synod except the one which has jurisdiction over the Presbytery whose procedure is complained of.

No interference with another Presbytery.

3. It is competent for a Presbytery to petition the Synod or Assembly with relation to any subject within the competency of the Court to whom the Petition is addressed, if the subject be not one which can come up to that Court by Reference, Complaint, Appeal, or Overture.

Petitions to Synod or Assembly.

<sup>1</sup> App. II. 3.

<sup>2</sup> App. X.

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Application of  
Ministers of other  
Denominations.

4. Any Minister or Probationer belonging to any other Denomination (except Ministers in occupation of Ministerial charges in the Presbyterian Churches of England and Ireland, the United Presbyterian Church, and in those Churches in the Colonies with which the Free Church is connected, when they have received calls from Free Congregations), who desires to be admitted as a Minister or Probationer of the Free Church, must apply, in the first instance, to the Free Church Presbytery within whose bounds he has taken up his residence. But the Presbytery has no power to admit him, but must fill up answers to certain questions regarding the Applicant, and transmit these answers to the General Assembly, along with any remarks or recommendations which it may seem fit to add. (See Act VIII. Assembly 1850, Appendix II. 3.)

Procedure as to  
Colleagues and  
Successors.

5. When a Presbytery has come to the conclusion that a Congregation ought to be allowed to call a Colleague and Successor to their Pastor, the Presbytery is required to draw up a Minute of recommendation and application to the General Assembly to that effect, or, at least, to prepare Extracts from its Minutes, which, while exhibiting its whole procedure in the case, may embrace such a recommendation and application. The Minute or Minutes ought to embody, as briefly as may be consistent with clearness, the essential points involved in the Minutes of the Kirk-Session, the Deacons' Court, or the Congregation. And with a view to bringing the application before the next General Assembly, the Presbyterial Minute or Minutes, with all other essential documents, including all those under view of the Presbytery, must be transmitted to the Clerks of Assembly on or before the last Wednesday of February, in order that they may be presented to the Ordinary Commission of Assembly at its Meeting on the first Wednesday of March. It is the duty of the Presbytery to instruct its Clerk to this effect. (See Chapter II. Part II. Division I., Sections 37, 38, and 39; see also Recommendations to Presbyteries, Acts 1866, p. 266.<sup>1</sup>)

It is the duty of Presbyteries to deal with applications for Colleagues and Successors in Congregations that are not self-supporting, as if they were dealing with vacant charges, in so far as communication with the Committee on the Platform of the Equal Dividend is concerned. (See Chapter II. Part II. Division I., Section 41; also Act III. Assembly 1865, and Act VI. Assembly 1861.<sup>2</sup>)

Aid for  
Assistants.

6. The rules as to a Presbytery's procedure with relation to the appointment of a Colleague and Successor apply also to any case in which pecuniary aid is sought to enable a Congregation to provide a Minister with an Assistant. In particular, the preparation and transmission of an Application to the Assembly are required in the same way as in the other case. (See Chapter II. Part II. Division I. Sect. 45.)

Aged and  
Infirm Fund.

7. The same action toward the Assembly and its Commission with that referred to in the preceding Sections is required of Presbyteries in connection with all applications whatsoever for aid from the Aged and Infirm Ministers' Fund.

Sanctioning of  
Charges.

8. The Minute of Presbytery recording its opinion in favour of

<sup>1</sup> App. II. 3.

<sup>2</sup> App. VII. 1.

an application for the sanctioning of a new Pastoral Charge within its bounds, must take the form of a Recommendation, and must be transmitted to the Clerks of Assembly on or before the last Wednesday of February, as in the case of an application for a Colleague and Successor. It must embrace a full statement of the case, as presented by documents before the Presbytery, and as known to the Members through Presbyterial Superintendence or personal experience. The documents upon which the statement and opinion are founded must also be transmitted at the same time. (See Act VII. Assembly 1849,<sup>1</sup> and Chapter II. Part II. Division I. Section 51.)

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9. When application is made on the part of a Station for aid from the General Assembly's Home Mission Committee, it is requisite for the Presbytery of the bounds to communicate its judgment thereon to that Committee, either spontaneously, or in consequence of the Committee having asked for such communication.

Application from Station for Aid.

10. The approbation of the Presbytery of the bounds is required for every application for aid from the Home Mission Committee, according to its rules, towards the support of a Student Missionary in any Congregation.

Student Missionary.

11. Particular action and communication are appointed for Presbyteries with relation to the Sustentation Fund and the Plat-form of the Equal Dividend. (This whole subject is explained in Appendix No. VII.)

Sustentation Fund and Equal Dividend.

12. It is the duty of Presbyteries to observe carefully all those instructions of the General Assembly which are consistent with the constitution of the Church, respecting the various collections and operations appointed or instituted by that Assembly, and carried out by means of its Committees or otherwise, for the furtherance of the Gospel at home and abroad, or for the welfare of the Church. With the view of adequately performing this duty, each Presbytery ought to give a respectful and earnest consideration to every recommendation or intimation made to it by any one of the Assembly's Committees.<sup>2</sup>

Collections appointed by Assembly.

13. The sanction of the Presbytery is required for any Sale or Transference of Churches or Manses, or other buildings which, by their Title-Deeds, have become the property of the Free Church of Scotland. This sanction must be intimated to the General Assembly, along with the necessary application from the parties to that Body, who alone have jurisdiction in the matter. (See Appendix No. VI.)

Transference of Buildings, etc.

14. It is competent for any Presbytery to transmit what is called an Overture either to the Provincial Synod or to the General Assembly, with the view of inducing the Superior Court to adopt any measure within its legislative or executive functions. Over-tures from a Presbytery to a Synod are not frequent in the Free Church of Scotland. But the adoption of an Overture to the General Assembly is the usual method by which a Presbytery ex-

Overtures to General Assembly.

<sup>1</sup> App. III. 3.

<sup>2</sup> App. IX.



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hibits its desire for effecting any improvement, or correcting any abuse in the procedure of the Church. Such an Overture may embody a proposal, either to declare what the law of the Church is, or to enjoin the observance of existing laws or to alter or supersede an existing law, or to enact a new law, or to take any measures consistent with the Word of God, and with what is believed to be the scriptural constitution of the Church. All Overtures from Presbyteries must be sent to the Clerk of Assembly at least seven days before the meeting of Assembly. The right form for a Presbyterial Overture will be found in the Appendix, No. XI. 1. (See Standing Orders of Assembly, Appendix No. III 5.)

Approval, etc.,  
of Overtures  
transmitted  
by Assembly  
according to  
Barrier Act.

15. It is the right and duty of every Presbytery of the Church to take its part in the Legislation of the Church, by approving or disapproving of Overtures transmitted by the General Assembly, with a view to such Overtures being passed into Standing Laws, in terms of what is called the Barrier Act. By that Act, passed in 1697, the rule has been fixed, that no Acts can be passed by the Assembly, so as to be binding rules and constitutions for the Church, until they have first been passed by the Assembly simply as Overtures, and transmitted in that form to the several Presbyteries for their opinions, and until the consent of a majority of Presbyteries has been obtained.<sup>1</sup>

Previously to the consideration of any such Overture in a Presbytery, a particular day is fixed for the purpose, either by some member giving notice of motion thereanent, or by an agreement that the subject shall be taken up at next ordinary meeting, or on some day specially named. If it be thought desirable, a Committee may in the first instance be appointed to consider the Overture, and to report. In declaring their opinion of an Overture transmitted by the Assembly, a Presbytery must either expressly approve of it or reject it. A qualified approval, or a proposed amendment of it, is held equivalent to its rejection. If a Presbytery wish to suggest any important amendment, the best course is to do so by a new Overture to the Assembly. Presbyterial returns to Overtures consist of certified extracts from the Minutes of Presbytery. A separate leaf of paper must be used for the return on each separate Overture, and all such returns must be made and transmitted to the Clerks of Assembly at least a week before the meeting of the Assembly. (See Chapter IV. Part II. Section 3, and Act IX. Assembly 1697.<sup>1</sup>)

Particular  
questions sub-  
mitted by  
Assembly.

16. Particular questions to which the rule of the Barrier Act does not strictly apply, are sometimes submitted by the General Assembly to the several Presbyteries. This course is taken when it appears expedient that the opinions of the Presbyteries should be communicated to the Assembly, or to any one of its Committees, with a view to assisting their counsels or guiding them in their procedure. A respectful attention is due by Presbyteries to the questions thus submitted to them.

<sup>1</sup> App III. 5.

17. The Members of the General Assembly are annually elected by the Presbyteries of the Church. Each Presbytery is allowed and instructed by special Act of Assembly to elect a definite number of Ministers and Elders as their Commissioners to the ensuing Assembly—the number of Elders being equal to the number of Ministers, and the whole number being proportioned, with very little variation, to the number of Pastoral Charges and Professorial Chairs, which are recognised as introducing the Ministers and Professors connected with them to seats in the Presbytery.<sup>1</sup> As the proportion of representation possessed by each Presbytery may vary from year to year, and as the whole proportion of Members elected by the Church is liable to change through fresh legislation, adapted to changing circumstances, though in perfect harmony with the ecclesiastical constitution, it is better to reserve for an Appendix in connexion with Chap. IV., a particular statement of the existing law as to these proportions. It will suffice, in this place, to point out distinctly the position and duties of every Presbytery with reference to the Election.

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Election of  
Representatives  
to Assembly.

(1.) In accordance with instructions from the General Assembly, or in accordance with its Standing Orders, or in conformity to resolutions of its Committee on Assembly Arrangements, the Clerks of Assembly must intimate in due time to all Presbyteries concerned whatever changes they require to make in the amount or order of their returns. The action of the Clerks of Assembly in this matter must now be regulated by the Standing Orders adopted in 1865. (See Standing Orders, Appendix No. III. 5.)

(2.) If a Presbytery be dissatisfied with any intimation made to it by the Clerks of Assembly as to its proportion of representation, it may appeal to the Assembly itself against the intimation, whether founded upon a Deliverance of the Committee on Assembly arrangements or not.

(3.) The election must take place between the hours of eleven A.M. and eight P.M., at least forty days before the meeting of the Assembly. On the other hand, it must be at no earlier date than a calendar month preceding the first of these forty days. An exception is allowed in favour of Presbyteries in the Northern and Western Islands, which may elect their Commissioners on any day before the first day of May.

(4.) Every Presbytery must appoint and minute the appointment of the day for the election of its Commissioners to the General Assembly, at a meeting held at least ten days previously; or, in other words, it must then formally resolve to elect its Commissioners on a particular day.

(5.) On the day appointed, and within the specified hours, a Presbytery having respect to the Acts of Assembly and the Intimation of the Clerks of Assembly (in so far as it considers these inti-

<sup>1</sup> Variations exist at present, in consequence of both Ministers being counted in Congregations with Colleagues and Successors, and of every Minister being counted who, on any ground, is a constituent member of Presbytery.



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mations to be conformed to the Acts), with respect to the number of their Commissioners, is called upon to elect freely such Ministers as it chooses from the whole of those who have seats in the Presbytery as Ministers or Professors, and such Ruling Elders of the Free Church of Scotland as it believes can be certified *bonâ fide* to be acting Elders in particular Congregations of that Church, and as it considers to be suitable persons for representing it in the Supreme Court. Each Presbytery may practically follow any rule of rotation in the Election of Ministers, and any rule of congregational or local selection in the election of Ruling Elders, to which its members are inclined. But the Minute must not intimate that it has done so; for the law of the Church recognises nothing but a free election. No person can be elected as a Minister or Professor who is not, in that capacity, a constituent Member of Presbytery. But any Ruling Elder is eligible, whether he belong to the bounds of the Presbytery or not, of whom it can be certified *bonâ fide* that he is an acting Elder in a Congregation of the Free Church. It ought to be added that when an Ordained Minister is recognised by the Church as employed in exercising the functions of a Teaching Elder, while he is not a constituent Member of Presbytery, he may be elected and received as a Representative Elder from a Presbytery to the General Assembly without the requirement of its being certified *bonâ fide* that he is an acting Elder in any Congregation.

(6.) Any Minister or Ruling Elder who has been elected a Commissioner by a Presbytery to the General Assembly, may intimate, at a subsequent meeting, his resignation of his Commission. In the event of such intimation, or in the event of the death of a previously elected Commissioner, the Presbytery may elect another in his room at any subsequent period previously to the Meeting of Assembly, provided this be done within the specified hours, and provided the prescribed forms be observed. Act II. Assembly 1885 declares any election invalid which is made after the Assembly has met.

(7.) Printed Forms of Commission are furnished by the Clerks of Assembly to the Clerks of Presbyteries. They contain, *inter alia*, a form of attestation which embraces the qualifications of the elected Commissioners. This, as well as every other part of the Form, must be carefully and exactly filled up, and read over in the presence of the Presbytery. The Minutes of Presbytery must be so drawn up as to correspond to the Form.

(For this Form and the varieties of Minute connected with it, see Appendix, No. XI I.)

(8.) The Commission to a Presbytery's Representatives, attested by the signatures of the Moderator and Clerk, ought to be sent to the Clerks of Assembly at least one week before the day appointed for the Meeting of Assembly.

(9.) It is the practice in many Presbyteries to supply the pulpits of the Ministers who represent it in the Assembly on one or both of the two Sabbaths which occur during the period of the Assembly's sittings. But there is no law upon this subject.

18. Before proceeding to the Trials of a Student for License, a Presbytery is required to give notice, in a specified manner, to the other Presbyteries within the bounds of the Provincial Synod to which it belongs. The leave of that Synod is an essential preliminary to the Presbytery's procedure with the trials. (See Act XI. Assembly 1860.<sup>1</sup>)

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Leave of Synod as to Students' Trials.

19. Presbytery Records are liable to be called up by the Provincial Synod for revision and attestation, according to the law of the Church. They are generally required to be submitted to the Synod once a year. (See Act IX. Assembly 1700.<sup>2</sup>)

Submission of Record to Synod

20. An abstract of the proceedings of each Provincial Synod ought to be sent down to every Presbytery within its bounds as soon after its meeting as possible. This abstract must be read at the first Ordinary Meeting of Presbytery that occurs after its receipt, and the fact of its being read must be duly recorded.

Abstract of Synod's Proceedings read.

*Supplement to Chapter II. Part II., containing particulars common to the Three Divisions.*

SUPP.

1. The business at any ordinary Meeting of Presbytery is usually arranged as follows:—

(1.) Matters referred to in the Minutes of the last Ordinary Meeting as remaining to be disposed of are first of all taken up in the order of that Minute.

Order of Business.

(2.) Any new case, in which parties are prepared to appear at the bar, is taken up at as early a stage of the procedure as the nature of the other business will allow, unless it be intimated that those parties are willing that it should be postponed. This course is followed simply on the ground of courtesy towards persons who may have been put to inconvenience in order to attend the Meeting, and may not wish to be detained.

(3.) Periodical Reports of Committees on any subjects, which require to be regularly and statedly attended to, such as the Returns to the Sustentation Fund, are usually disposed of next in order to the matters suggested by the Minute, and the cases of immediate urgency, in which parties at the bar are concerned.

(4.) The consideration of Overtures is allowed to take precedence of any business not included under the foregoing heads.

(5.) On the day appointed for the Election of Commissioners to the General Assembly, the discharge of that duty usually takes precedence of any other business after eleven o'clock A.M.

(6.) If there be more than one piece of business appointed for a *pro re nata* or *in hunc effectum* Meeting, that first mentioned in the Circular calling, or in the Minute appointing the Meeting, comes naturally to be first disposed of.

(7.) A Presbytery may break through the order here indicated as customary, and may arrange its business in any manner that seems suitable in its own view, provided it take care to provide

<sup>1</sup> App. V.

<sup>2</sup> App. III. 1.

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## Duty of Clerk.

that no duty shall be neglected by it, which is required by the constitution of the Church and the Acts of Assembly.

(8.) It is the duty of the Clerk of Presbytery to bring forward the several matters of business in the order which he thinks the best and most approved. He may thus save much time, although the Presbytery may, in particular instances, overrule his judgment. It is a useful practice for him to put into the hands of the Moderator, at the outset, a list of the matters to be taken up, in the proposed order. For, strictly speaking, it is the part of the Moderator to intimate, at each stage of procedure, what ought next to be considered. But practically the Clerk, from his more minute knowledge of particulars regarding the business, is permitted to act as the Moderator's Assessor or Deputy in this department of duty.

Adjustment of  
Minute.

(9.) When a matter of business has been disposed of, especially if it be of serious consequence, the Minute thereanent ought to be exactly adjusted, and read before passing to the next business.

2. With a view to a Presbytery coming to a decision upon any question, a Member of Presbytery must make a Motion on the subject.

Motions and  
Speaking.

(1.) When parties have been heard at the bar on any matter before a Presbytery, the Judgment must proceed, in part at least, upon the view taken by those who concur in it, of the statements made by these parties. Consequently there can be no previous Notice of Motion in such cases. But in matters which do not involve the hearing of parties, and especially in matters of legislation, the usual courtesy is to give notice at a previous Meeting of any Motion which is intended to be brought forward.

(2.) Any Motion submitted to the Presbytery should be committed to writing and given in to the Clerk. If, after the Mover has addressed the Presbytery, the Motion be not seconded, it falls to the ground, without discussion. When it is duly seconded, it is open either for unanimous adoption, or for discussion. No alteration can be made upon it without the leave of the Presbytery, except in the shape of an Amendment, or Second or Third Motion, proposed and seconded by other Members who object to the First Motion as it stands. A Motion made, seconded, and recorded, cannot be withdrawn without the leave of the Presbytery.

(3.) In the discussion on Motions, a Member can speak only once, unless he ask leave to explain something in what he has said which seems to be misunderstood. Leave is always granted to this effect, provided he confines himself strictly to explanation. An exception to the rule is allowed in favour of the Member who introduces the First Motion, who has a right to reply. But he is not permitted to introduce any new matter into his reply. After the reply, the discussion is held to be closed, and the Vote is taken.

## Call to order.

(4.) In the course of a discussion, any Member has a right to call another to order, and, when this is done, the person speaking should stop till the question of order is determined. Any Member

(whether he has already spoken or not) can take part in the discussion of the point of order. It is convenient that the point of order be referred, in the first instance, to the Moderator, who may at once announce such an opinion thereanent as may manifestly, without any vote, command the general concurrence. But, if there be much division of opinion, the point must be determined by a vote.

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3. In voting, a Presbytery usually follows the substance of the rules exhibited in the Standing Orders of the Assembly, except that the result of any vote is ascertained simply by calling the Roll, and the Members present, each saying when called, First Motion, or Second Motion, or Amendment, or naming the Motion he votes for in the way agreed upon.

Voting.

(1.) When there are only Two Motions before a Presbytery on any subject, the state of the vote is *Motion* or *Amendment*, or *First* or *Second* Motion. The Roll is called by the Clerk or some one assisting him, and the votes are marked for the one Motion or the other. The one preferred by a Majority is announced and intimated as the Decision of the Presbytery.

(2.) When there are Three Motions, the usual practice is to follow the rule of the General Assembly's Standing Order, and to put the Two *Amendments* or the *Second* and *Third* Motions against each other in the first instance. The one of these which is carried by a Majority is then put against the Original Motion, and the one which is carried, on this Second Vote, is announced and intimated as the Decision of the Presbytery.

(3.) It is the duty of the Clerk to mark the votes, taking assistance from one of the Members.

(4.) On the same principle, any number of Motions or Amendments may be disposed of by putting the last, in the first instance, against the second last, and so determining which is to be put against the next in the reverse order. The question may thus always be reduced to a vote between the Original Motion and that Amendment or Motion, whether it be Second, Third, or Fourth, or Fifth, which has been preferred through successive votes, as the one to be placed in immediate competition with the Original Motion.

(5.) During the taking of a vote, the doors ought to be closed, so as to avoid all confusion by Members going out or coming in.

4. The usual and approved means of communicating decisions of Presbytery to those whom they concern is by Extracts.

Extracts.

(1.) Parties in cases before Presbyteries are entitled to Extracts from the Record, containing those parts of the Minutes in which they are concerned. Those parties who acquiesce in a Judgment are equally entitled, with those who appeal against it, to crave Extracts and take Instruments in the Clerk's hands. (See Chapter I. Part II. Section 24.)

(2.) Members of Court are entitled to Extracts, when they desire to have them, whether they dissent and protest for leave to complain or not.

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(3.) Any person, who can show any reasonable ground for the request, may ask and obtain Extracts.

(4.) The Clerk is not at liberty to give Extracts to any Member of Court, or to any other party, without the express leave of the Presbytery.

(5.) The Presbytery cannot refuse Extracts to any one who requires them, to enable him to bring his case before the Superior Courts.

Fees.

(6.) The Presbytery is entitled to appoint fees to be paid to the Clerk for giving Extracts.

(7.) There ought to be an agreement with the Clerk, in fixing his emoluments, as to the extent to which he is expected to give Extracts without fee.

(8.) It is not usual to require any fees for Extracts, when they are manifestly requisite to enable those who ask for them to bring their Appeals or Complaints before the Superior Courts, or to enable those who acquiesce in decisions to have the means of showing that these decisions have been in their favour.

(9.) Fees may be reasonably required when Extracts are given without any manifest necessity. But this point must be determined by each Presbytery for itself.

Modes of raising  
Funds.

5. The modes of raising funds for necessary expenses may vary in different Presbyteries. Fees of greater or less amount may be charged to each Congregation within the bounds at the settlement of its Minister. Other charges may be instituted of a similar kind. And an annual allocation of the whole, or a portion of what is required, may be made to each Congregation. The Presbytery usually finds it advisable to arrange with its Clerk how this matter is to be adjusted, when it fixes the terms of his appointment, and the amount of his own and its Officer's salary.

## CHAPTER III.

### THE PROVINCIAL SYNOD—ITS CONSTITUTION, POWERS, AND FUNCTIONS.

#### PART I.—*The Constitution and Officials of the Provincial Synod.*

THE Constitution of a Provincial Synod in the Free Church of Scotland is founded on the same scriptural principles of unity, good order, and manifest expediency, which lead to the Constitution of a Presbytery as a representative body. The extension of the Church beyond the limits which admit of all the Congregations being under one Presbyterial government, or of all the Pastors meeting frequently together, renders a subdivision into two or more Presbyteries essential for the administration of Christ's laws in an effective manner. But the unity and harmonious action of the Church could not be preserved if there were not occasional meetings of a Court comprehending or representing all the Presbyteries produced by the subdivision. Even when it is inconvenient for all the Pastors of a widely extended territory to meet frequently together, it may not be inconvenient for them to meet at the interval of a year, or of six months. It has consequently been held in good accordance with the scriptural foundations of the Presbyterian system, that all the Pastors of such a territory, and all the Ruling Elders, with commissions from Kirk-Sessions to sit in the respective Presbyteries, should form a Superior Court, for purposes of review and superintendence, and should meet as such either annually or once in six months. This Court has generally received the name of a Synod. It may be the Supreme Court of a Church, when the number and position of Presbyteries do not call for a subdivision into more than one Synod and for a higher representative Court, to which the Synods shall be subordinate. But in the Free Church of Scotland the subdivision has been found indispensable. That Church has at present in Scotland fourteen Synods, besides the two Presbyteries of Orkney and Shetland, each of which has synodical powers. Thus no Synod is a Supreme Court, but they are intermediate Courts between Presbyteries on the one hand, and the General Assembly on the other. The proper designation, therefore, of any

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Principles of  
Constitution.



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## Membership.

one of them, is the Provincial Synod of whatever territory it comprises.

In the application of these general principles and arrangements to the Constitution and Officials of a Provincial Synod, the following rules of practice have arisen :—

1. A Provincial Synod consists (1.) of all the Pastors of congregations within the province, Colleagues and Successors being included; (2.) of the Professors of Theology, whose appointed sphere of labour is within the province; (3.) of such Ordained Ministers within the province, and not having charges, as had been received in the capacity of members of a Presbytery in the province, previously to the meeting of the General Assembly in 1847, or who may since have been, or may hereafter, by authority of the General Assembly, be so received; (4.) of the same representative Elder from each Kirk-Session in the province, who represents it in the Presbytery to which it belongs; and (5.) of corresponding members, both Ministers and Elders, commissioned as such by neighbouring Synods. A Provincial Synod may associate with itself in its deliberations, *pro tempore*, any ordained Minister who is present, but he cannot vote upon any question before the Court. Ministers and Elders from other Synods may be added by the General Assembly as Assessors to the Synod for particular purposes. With reference to these purposes, and these purposes only, they have the rights of members during their appointment.

2. The same commission from a Kirk-Session which constitutes a Ruling Elder a member of Presbytery, constitutes him also a member of Synod during the six months or the year which is terminated at the close of the first ordinary meeting of Synod after his election. He cannot be allowed to take his seat in the Synod, unless either his commission be produced, as in the case of the Presbytery, or his name appear in the Roll of his Presbytery, as certified to the Synod by the Clerk of Presbytery. The form of commission must, of course, bear that he is elected to represent the Session in the Synod as well as in the Presbytery. (See Appendix No. XI. 1.)

3. Corresponding members are commissioned by each Provincial Synod to attend the meeting of neighbouring or adjoining Synods. It lies with the Assembly to fix the number of such corresponding members in the case of each Synod in its relation to any neighbouring Synod. That number is generally limited to one Minister and one Ruling Elder, who must both belong to congregations within the province of the Synod which commissions them. In some instances, in which it was thought that Synods required to be specially strengthened, the Assembly has appointed two Ministers and two Elders to be sent as corresponding members from neighbouring Synods. Corresponding members have an equal right of speaking and voting with other members. Before being allowed to take his seat, each of them must produce a commission in regular form. (See Appendix No. III. 4; also No. XI. 1.)



4. The locality, the name, and the number of Presbyteries for a Provincial Synod, are fixed by the authority of the General Assembly. New Synods may be instituted, or new arrangements made regarding old ones, as the Assembly may judge expedient. The number of Presbyteries in a Synod of the Free Church of Scotland at present varies, if we include Presbyteries with Synodical powers, from one to eight. The Assembly also fixes the ordinary place or places of meeting for each Provincial Synod. In some cases the appointment is to meet alternately at each of two places; or liberty is given to meet occasionally at one or more places in the province, which are specified in the Assembly's Deliverance. In order to exercise this liberty, the Synod must, at the close of a periodical Meeting, formally adjourn, to meet again for its next Ordinary Meeting at one of those places. The time for each Ordinary Meeting of the Synod is regulated by the Assembly.

5. An Ordinary Meeting of Synod may thus be described as one which takes place in accordance with an Act of Assembly, fixing its place and time, or which is held as such through the exercise of a choice allowed to the Synod by Act of Assembly.

6. It is not usual for a Provincial Synod to appoint any meeting *in hunc effectum*. But if the nature of any business before it at an Ordinary Meeting require a postponement, it is competent for it to adjourn, to meet again on a day more or less distant, provided the adjourned meeting can be held previously to the time fixed for the next ordinary meeting.

7. A *pro re nata* meeting of a Provincial Synod may be called by the Moderator, either *sua sponte*, or on a requisition addressed to him by some of the members, three of whom at least should be Ministers. In former times such a meeting was seldom called, except when the Synod, at the previous ordinary meeting, had foreseen the probable expediency of calling it, and had specially authorized the Moderator to do so. But the Act 1647 asserts the right of the Synod to assemble *pro re nata* as well as at ordinary times. The grounds that will justify the Moderator in calling a *pro re nata* meeting when he has no special instructions to that effect, are the unexpected intervention of matters which seem to demand the Synod's attention, as affecting those interests over which it is called to watch. The meeting may be convened by advertisement in the newspapers. The particular business to be transacted must be specified, and no other business can be taken up. The conduct of the Moderator in calling the meeting must be considered and approved or disapproved of at the outset, before the Synod proceeds to deal with the subject for which it has been summoned. If the Moderator decline to call a *pro re nata* meeting, after receiving a requisition to do so, the whole circumstances of the case may be brought before the Synod at the next ordinary meeting.

8. Three Members of Synod form a Quorum, provided two of the Members have the Status of Ordained Ministers.

9. It may be assumed that the principle involved in the Finding

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Validity of  
Meeting when  
Elders have been  
duly elected.

Commissions to  
Elders receivable  
at any Meeting.

Opening of  
Synod.

Adjustment of  
Roll, etc.

Election of  
Moderator.

of Act II. Assembly 1865, on the subject of the validity attaching to a Meeting of Presbytery when two Ministers and one or more Ruling Elders, duly elected and producing valid Commissions, have convened together, applies equally to the case of Provincial Synods. Upon this assumption, it may be stated that a Meeting of Synod may be duly constituted in such circumstances, and that the Form contained in Act VII. Assembly 1866, may be adopted *mutatis mutandis*. (See Chap. II. Part I. Sect. 13.)

10. It seems to follow that Commissions to Ruling Elders may be received at any Meeting of Synod, whether it be Ordinary or Adjourned, or *pro re nata*. (See Chap. II. Part I. Sect. 17.)

11. Each Ordinary Meeting of Synod is opened by the Moderator elected at the last Ordinary Meeting, who preaches a Sermon in one of the places of worship belonging to the Free Church in the locality. At the close of public worship he intimates that the Synod will meet immediately thereafter, mentioning at the same time in what room or building the Meeting will be held.

12. A quorum of Members being assembled, the Moderator constitutes the Meeting with prayer.

13. The first act of the Synod, at an Ordinary Meeting, is to adjust its Roll, or, in other words, to determine who are its Members. The Presbyteries in the Province are called in a certain order, so that the one called first at one Meeting is called last at the next one, and so on. When a Presbytery is thus called, a certified Roll of its existing membership is produced, and its Moderator or Clerk makes any additional intimation that may be necessary as to changes that have taken place on the Rolls of their clerical members since the last Meeting of Synod. Commissions to any Ruling Elders, whose names may not be in the certified Roll of a Presbytery, are then read, and if these be found valid, and are sustained, the names of the Ruling Elders referred to in them are added to the Roll. No Ruling Elder, whose name is not in the certified Roll of a Presbytery, can act as a Member of Synod, unless he produce a Commission appointing him to represent his Kirk-Session in the Synod as well as in the Presbytery, and unless that Commission be in due form, and bear that he is *bonâ fide* an acting Elder in the Congregation.

Thereafter Commissions to Corresponding Members from neighbouring Synods are called for. If produced, these Commissions are read. And if found in regular form, they are sustained, and the names of the persons mentioned in them are added to the Roll.

14. After the Roll has been made up, the Synod proceeds to elect a new Moderator. They may appoint any Ordained Minister who is a Member of Synod to fill the office. The practice as to the choice of a Moderator varies in different Synods. Sometimes a Minister in each Presbytery is named, who has not yet been Moderator of Synod, and a vote is taken to determine the election between the persons thus nominated. Sometimes the Senior Minister present who has not been Moderator is unanimously

elected. At other times the mind of the Synod is so generally turned toward some particular Minister as the one who ought to preside, that he is fixed upon at once without a vote. Or when great differences of opinion prevail upon important questions, such differences may occasionally create division in the appointment of a Moderator, who may thus be elected by a larger or smaller majority. When once elected, he remains in office till he has performed the duty of opening the next Ordinary Meeting, and till his successor has been chosen. It is his duty to preside at the diets of Synod, besides taking the lead in devotional exercises at the opening of each diet. In other respects his functions correspond to those exercised by a Moderator of Presbytery.

15. Each Provincial Synod appoints one or more Clerks. The Clerk is usually a Member of Synod. He may be specially appointed *ad vitam aut culpam*; or he may be simply employed to act as Clerk during the pleasure of the Synod. On his appointment he solemnly promises to discharge the duties of the office with fidelity. It is his duty to write regular Minutes of the Synod's procedure, to engross the same in a permanent Record, after they have been approved of by the Synod as correct; to give such Extracts to parties as the Synod have allowed; and to take charge of all the Synod's papers, books, and documents. In the absence of the Clerk, some one is appointed by the Synod to act as Clerk *pro tempore*. The fact of his appointment should be entered in the Minute, and the Minute should be signed by him as Clerk *pro tempore*. The regular Clerk of Synod has usually a Salary drawn from contributions by the congregations within the Province, and from fees paid for Extracts. These contributions and fees are regulated by each Synod for itself.

16. Every diet of a Synod's sittings is both opened and closed with prayer. The Minute must always bear, at the outset, that the Synod was constituted, which expression implies that it was constituted with prayer, and that a sufficient Sederunt has been ascertained, and, at the end, that the Meeting was closed with prayer. No Minute can be sustained as valid if it does not mention these two particulars. No Extract from the Minutes can be received which does not bear that the Synod was constituted, and which is not certified by the Synod Clerk as having been extracted by him from the Records of the Synod.

17. After the Roll has been adjusted and the Moderator has been elected, or after the Synod has been constituted at its second diet, either the Minutes of the last Meeting of Synod, or the topics of them as stated in the margin, are read over, to remind or inform the members of what was transacted. But, having been before approved of and revised, they are not submitted for the judgment of the Synod. The Minutes of each diet are read over and approved of, or corrected, at the commencement of the next diet, excepting those of the last diet, which are read over and approved of, or corrected, at the close of that diet. A Committee is sometimes

Opening and closing of each Diet.

Minutes of last Meeting read over.

Approval of Minutes of each Diet.

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Committee to  
revise Minutes.

appointed to revise the whole Minutes of the Meeting in its several diets before they are written out *in mundo*. The Minutes of any *pro re nata* Meeting of Synod must be read over and approved of or corrected at the first diet of the first ordinary meeting thereafter. After the minutes of any Meeting have been approved of by the Synod, they cannot afterwards be altered except by the authority of the General Assembly. The approval or correction of the Minutes does not imply any power to alter the *res gestæ* of the Meeting. The only question is the correctness of the Minute as a true account of what was done. The Minutes of each meeting of Synod in the several diets, after they have been approved of and engrossed in the permanent Record, must be signed by the Moderator and Clerk. Any person who has acted either as Moderator or Clerk during a portion of a sederunt, ought to sign the Minute of that sederunt, as Moderator or Clerk *pro tempore*, in addition to the signature of the other person occupying either office.

Openness of  
Court.

18. The Synod is an open court; but it may, like the Presbytery, close its doors when edification seems to require that course. (See Chap. II. Part I. Sect. 24).

Synod Officer.

19. The Synod appoints an Officer, who is in attendance at its meetings and executes its orders. At his appointment he promises to perform the duties of his office with fidelity. He has a salary arising from contributions by the congregations, and regulated by the Synod.

PART II.—*Powers and Functions of the Provincial Synod.*

Limits to Powers.

FROM what has been already stated in the introduction to Part I., it is manifest that a Provincial Synod in the Free Church of Scotland is mainly a Court of Review, and, from a comparison of Chapter II. Part II., and Chapter IV., it may be seen that, standing between the Presbyteries of the province and the General Assembly, it has no large amount of originaive powers or functions. The scriptural principles, already alluded to, are sufficient to require that there shall be such a Provincial Court with intermediate jurisdiction. But the scriptural constitution of the General Assembly, and the corresponding rules laid down for the passing of proposals into Acts of Assembly, have the effect of limiting the Synod's action, in a great measure, to judicial Superintendence and Review, and of preventing it from taking much part in ecclesiastical legislation. (See Chapter II. Part II. Division III. Sect. 18, and Chapter IV. Part. I. Sect. 1.) From the position thus occupied by the Synod, the following rules of practice have arisen:—

Two Diets at  
least.

1. At each ordinary or fixed meeting, there must be at least two diets or sessions to enable the Synod to ascertain its business in due order, by the appointment of a Committee or Committees, whose report or reports may be submitted, before any subject is taken up for judgment or discussion. The expediency, if not the

absolute necessity, of two diets or sessions, appears also from the duty of examining the Records of Presbyteries, which can be accomplished only through the appointment of Committees and the receipt of their Reports.

Subjects taken up in succession

2. Immediately after the Minutes, or the Heads of the Minutes, of last ordinary meeting have been read over, the subjects which they show to require renewed consideration at the existing meeting are taken up in succession.

3. At the first diet, either two Committees are appointed, one for Overtures and the other for Bills, or one Committee, which is called the Committee for Bills and Overtures.

Committees or Committee for Bills and Overtures.

4. The Records of Presbyteries are then called for. If any one of them be not laid on the table, the Clerk of the Presbytery, if present, is asked to explain the reason. Any Member of Presbytery present may give the explanation. If it be not satisfactory, the Presbytery is liable to censure. A small Committee is appointed to examine each of the Records laid on the table, with an instruction to report at the next diet.

Records called for.

5. Other Committees are appointed at this diet, if the Synod see cause, in order to expedite the business, with an instruction to report, either at the next diet, or at a future diet of the same ordinary meeting.

Appointment of other Committees.

6. If any Reports have been received from Presbyteries as to their intention of taking Students upon probationary trials, the Clerk of Synod gives notice of these at this diet, mentioning the names of the Presbyteries and the Students, and laying the Extracts from the Minutes of Presbyteries, and the Certificates of the Students, upon the table. If the Clerk of any Presbytery have failed to forward a Student's Certificates, or the Presbytery's abstract of them, it is competent for the Student himself, or for any Member of Synod, to lay them on the table, provided this be done at some diet which is not the last. The cases of Students, when reported by the Clerk at the first diet, are ordered to be considered at the second diet. By a recent Act of Assembly, the Synod is allowed to remit the Extracts and Certificates to a Committee, who report at the second diet. (See Act XI. 1860.<sup>1</sup>)

Reports as to Students.

7. Intimation is publicly made of the time at which the second diet will commence, before the adjournment taking place at the first diet. This adjournment is sometimes only for half-an-hour. The practice in different Synods varies. In some instances, the first adjournment is till the evening.

Intimation of second Diet.

8. (1.) Between the close of the first diet and the commencement of the second diet, the Committee or Committees on Overtures and Bills meet for the purpose of preparing the business of the Synod, in so far as it is not merely of a routine character. The Moderator and Clerk of the Synod are, *ex officio*, Moderator and Clerk of the Committee on Overtures. Where there is a separate Committee on Bills, that Committee elects its own Moderator and Clerk.

Meeting of Committee for Bills and Overtures

<sup>1</sup> App. V.



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## PART II.

## Overtures.

(2.) An Overture is a proposal made by the Synod to the General Assembly for an alteration in ecclesiastical rules and arrangements, or for some course of action in other matters competent to the Assembly. Every proposal for such an Overture must be subscribed by one or more members prepared to support it, and must be presented to the Committee, with the view of its being transmitted by them to the Synod. The Committee are called upon to judge whether the Overture be in due form and competent, and to transmit it or not to the Synod, in accordance with their judgment. An appeal may be taken to the Synod against the judgment by any one of the parties concerned. And a dissent and complaint may be entered against it by any Member of Committee.

## Bills.

(3.) Under the head of Bills are included all References from Presbyteries, all Appeals, and Dissents, and Complaints against their decisions, and all Petitions to the Synod. The papers in such cases must be accompanied by a Petition to the Committee to transmit them, signed by some party concerned, or by some one acting for a party concerned. The Committee must judge as to the formality and competency of all such papers, and must resolve to transmit them, or not to transmit them accordingly. Any of the parties may appeal to the Synod against this judgment. And any Member of Committee may enter a Dissent and Complaint.

## Reports on Overtures and Bills.

(4.) The Minutes of Committees on Bills and Overtures constitute their Reports, and in those Minutes they narrate their proceedings, give a list of all the papers brought before them, and thus bring those transmitted by them before the Synod.

## Cases of Students.

9. At the second diet of Synod the first business transacted after the approval of the Minutes is the consideration of the cases of Students which have been transmitted from Presbyteries. With reference to the cases from any Presbytery, the practice in some Synods is that each of the other Presbyteries is asked in succession whether the Circular Letters required by Act of Assembly have reached them in due time. In other Synods it is assumed that this has been the case if nothing be said to the contrary. Either upon this assumption, or when due receipt has been acknowledged by the several Presbyteries *coram*, the certificates along with the Presbyterial Abstracts are either referred to a Committee to report at a future diet, or at once taken into consideration. If the certificates and extracts are found to be satisfactory, either at the second diet or at any subsequent diet, the Synod grants leave to the several Presbyteries to take the Students on public probationary trials, and to license them if found qualified. (See Act XI. 1860.<sup>1</sup>)

## Reports of Committees.

10. The Synod then calls for the Reports on Overtures and Bills which are given in and read, and any Appeals or Complaints against the judgments of the Committee or the Committees are disposed of. Thereafter the Synod, having now its whole business before it, proceeds to arrange that business in what seems the most suitable order. This order includes the fixing of the time for receiving the

<sup>1</sup> App. V.

Report of any Committee appointed by the Synod. The Committee or Committees on Overtures and Bills may meet again at the interval between any diet and the next diet, provided the special leave of the Synod be granted to that effect.

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PART II.

11. The rules for the discussion of proposed Overtures to the General Assembly; for dealing with References from Presbyteries, Appeals, and Complaints against their judgments, and Petitions; for the putting of motions against one another; for the taking of the vote; for the entering of Dissents, Appeals, and Complaints to the General Assembly, and for the making of references to that Court, are the same, *mutatis mutandis*, with those mentioned in Chapter II. Part II. with reference to the business of Presbyteries.

Rules of Discussion, etc. etc.

12. The practice as to the time of appointing Corresponding Members to neighbouring Synods varies in different Synods. In some Synods the appointments are made at the first diet. In other Synods they are made at a later diet, or even at the last diet. Certificates of attendance are granted to Corresponding Members if they desire it.

Appointment of Corresponding Members.

13. There ought to be, by the original and unaltered laws of the Church, and there is in some Synods, a diet for Privy Censures at every stated meeting. This diet should be in private, and is sometimes made use of for receiving and discussing the Reports on the Books of Presbyteries. The recommendation of the Report on Presbyterial Visitations already adverted to (see Chap. II. Part II. Div. II. Sect. 3), is that the diet for Privy Censures, or for the Trial of Presbyteries, as it used to be called, should be the second diet of the Synod's meeting, or, at least, that part of that diet should be occupied with this business. In the trial, the Synod should proceed to examine as many Presbyteries at each periodical meeting as it can conveniently overtake. The Presbytery examined ought to appear at the bar by at least its Moderator and Clerk, and as many other Members as convenience will allow. A brotherly inquiry ought then to take place into the procedure of the Presbytery, and the state of matters within its bounds. The subjects of inquiry suggested in the Report are:—

Privy Censures, Trial of Presbyteries, etc.

The attendance of Members at meetings, the setting apart of any meeting or meetings for Prayer, the observance of Presbyterial exercises and the carrying out of Presbyterial Visitations, the reading of the Acts of the last Assembly, the consideration of Overtures transmitted by the Assembly, the revisal and attestation of the Records of Kirk-Sessions, and of the Records and Accounts of Deacons' Courts, the attestation of Communion-Rolls, the residences of Ministers, the number of Elders and Deacons, their signing of the Formula, Vacancies within the bounds, Preaching-Stations within the bounds, Schools and the Visitation of them, lecturing and preaching, frequency of the dispensation of the Lord's Supper, Ministerial Visitation of Families, Collections for the Schemes, Reports from Kirk-Sessions on the state of Religion, the Sustentation Fund, observation of Fast and Thanksgiving Days, means taken for check-



## CHAP. III.

## PART II.

Abstract of  
Proceedings.

Collections.

Record, Re-  
sponsibility to  
Assembly.

ing Profaneness and Error, and for preaching the Gospel where no congregation is formed, and meetings of the brethren for Prayer and Conference to strengthen one another's hands.

14. An Abstract of the proceedings of every periodical or ordinary meeting of Synod used to be sent through the Clerks to all the Presbyteries within the province, as soon as possible after the meeting. This practice is continued in some Synods, and no sanction appears to have been given to its abandonment.

15. Synods are enjoined by an Annual Act of Assembly to take a particular account of the diligence of their Presbyteries as to the making of the appointed Collections for the Missionary and Educational Schemes of the Church, and to record the result in their Books. (See the Act each year.<sup>1</sup>)

16. The Synod is responsible for the keeping of its permanent Record to the General Assembly, just as the Presbytery is responsible to the Synod. The Record must be sent up to the Clerks of Assembly, so that it may be laid on the table of the Assembly on or before the first Saturday of the Assembly's sittings. The statements made as to the keeping of the Presbytery's Record, with a view to its examination by the Synod, apply, *mutatis mutandis*, to the keeping of the Synod's Record, with a view to its examination by the General Assembly. (See Chapter II. Part II. Division III. Sect. 2, paragraph (2.) See also Chapter IV. Part II.)

<sup>1</sup> App. IX. 1.

## CHAPTER IV.

### THE GENERAL ASSEMBLY.

#### PART I.—*Constitution and Officials of the General Assembly.*

THE existence and constitution of a General Assembly as the Supreme Court in the Free Church of Scotland, are not the result of arbitrary invention or skilful contrivance by any set of men. They proceed from a conscientious respect to the authority of Scripture, on the part of those who believe that they can trace out the steps by which, in a close following of the inspired voice, a Church may reasonably arrive at the substance of Free Church Presbyterianism. It has been shown how the constitution of a Presbytery springs from the endeavours of believers to carry out the unity, good order, and efficient superintendence which the Word of God seems to require in the connexion of several contiguous Congregations. It has been shown that the extension of the Church, by the multiplication of Congregations beyond the limits which admit of their being under one Presbyterial government, appears to render a Provincial Synod scripturally necessary, through the subdivision that must take place into several Presbyteries. The same principle originates a General Assembly, or at least such a General Assembly as exists in the Free Church of Scotland. For the number of Congregations in a Church may be so great as not only to prevent the possibility of holding a meeting that shall include all the Ruling Elders belonging to the various Kirk-Sessions, but also to render it inexpedient for even all the Pastors to meet at the same time and in the same place. It follows that, in the formation of a Supreme Court for a Church in such circumstances, the principle of representation must be applied to the Pastors as well as to the Ruling Elders. And since the object, in the application of that principle, is to represent the mind of the Church as effectually as possible in her Supreme Court, it has been considered that the system of representation ought to enable each Presbytery to represent itself in the Assembly by a fairly proportioned number both of Ministers and Elders. In carrying out these conclusions, the following Rules of Practice have arisen in the Free Church of Scotland :—

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PART I.

Principles of  
Constitution.

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## PART I.

Temporary  
character.

1. The General Assembly differs from the Inferior Church Courts in the circumstance that, as a body, it has no permanent existence. A Kirk-Session has permanent existence, inasmuch as its Membership is not subject to change, except by the decease or transference from the locality, or resignation or deposition of a Minister or of a Ruling Elder, or by the election and admission of additional Ruling Elders, on the ground that an addition is required. A Presbytery is subject to greater change in its constituent elements, inasmuch as the Representative Ruling Elders from Kirk-Sessions are changed at every interval of six or twelve months. A Provincial Synod is in precisely the same position, with the exception that the Corresponding Members from neighbouring Synods are changed at every Ordinary Meeting. Thus each of the Inferior Courts has, in ordinary circumstances, a sufficient amount of Membership always remaining to preserve it in existence, and even in action, at least to some effects. But, immediately after the breaking up of one constitutional meeting of the General Assembly, at the conclusion of its immediately successive diets, except when it has specially adjourned to meet at another time for the more complete discharge of duties belonging to it which have not yet been overtaken, no General Assembly continues to exist until another has been elected by the free choice of the Presbyteries. It meets for the purpose of performing specific duties assigned to it by the Constitution of the Church, and devolved on its particular Members by the determination of the several Presbyteries respectively. When those specific duties have been performed, its Members have no further power, and, in place of adjourning, as the Provincial Synod does, it dissolves itself. It has been settled by practice, indeed, that part of one Assembly's duty is to fix the time and place for the calling of the next Assembly. But this appears to be simply an arrangement adopted as the most convenient manner for giving effect to the Ecclesiastical Constitution. Nor can it be reasonably assumed as involving any absolutely inherent power, apart from the pleasure of the Presbyteries or the general mind of the Church. Whatever powers or functions belong to the General Assembly, belong to it entirely as a representative and temporary body.

Membership.

2. The General Assembly consists of an equal number of Ministers and Elders, commissioned annually by each recognised Presbytery of the Church. The exact number to be elected and commissioned by each Presbytery is fixed from time to time, by Act of Assembly, with consent of a majority of Presbyteries.

Rules for regulating number  
from each  
Presbytery.

3. As the number of representatives from each Presbytery and the rules for regulating the number are thus subject to variation, it seems better that the substance of the existing laws should be stated in an Appendix, than that the text of this Manual should be loaded with particulars which may be altered at any time. (See Appendix III. 5, and Standing Orders of Assembly.) It should be remembered, however, that two principles, at least, are held to be permanently fixed in the constitution of the Free General

Assembly, viz.,—(1.) That the number of Ruling Elders commissioned by each Presbytery shall be equal to the number of Ministers ; and (2.) That the proportion of representatives from each Presbytery shall be just and fair as compared with the representation from other Presbyteries.

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4. It is held to be the duty of the General Assembly, through its Clerks or otherwise, to furnish every Presbytery with adequate information both as to its proportion of representation, as to the time for electing its representatives, as to all the needful procedure with respect to the election, as to the form of Commission to be transmitted to the Assembly, and as to the time and manner of transmitting it. Any one of these particulars may be altered by Act of Assembly. It appears better, therefore, to refer here to the Standing Orders, which the Assembly prints every year, than to mention what they contain in detail, as if it were part of that fixed ecclesiastical law, with which a Manual has properly to deal. Whatever beyond what is stated in this or the accompanying sections may seem necessary to be specially pointed out for the present guidance of Ministers and Elders, on the subject of Representation in the General Assembly, may be most suitably dealt with by exhibiting in an Appendix the Standing Orders and Acts of Assembly relative thereto.

Duty of Assembly, etc., to furnish information as to election of its Members.

5. The practice of the Church makes it necessary that the Ministers commissioned to represent a Presbytery in the Assembly must all be members of that Presbytery. But the same practice has settled that a Presbytery may be represented by any Ruling Elder of the Church, *who is otherwise qualified*, whether he belong to that Presbytery, and be under its jurisdiction or not.

Ministerial representatives. Ruling Elders representative.

6. The Act XII., Assembly 1839, requires that no Ruling Elder shall be held qualified to represent a Presbytery in the General Assembly who is not *bonâ fide* an Acting Elder in the Congregation in which he holds office, and that, along with every Commission in favour of a Ruling Elder as Commissioner to the General Assembly, there be produced a certificate from the Kirk-Session of his Congregation, to the effect that he is *bonâ fide* an Acting Elder therein. Without this certificate no Ruling Elder is allowed to take his seat in the Assembly. It has since been enacted by Act IX., Assembly 1863, that there be added to this certificate the statement that the Ruling Elder 'has signed the formula.' The last clause of the Act XII., Assembly 1839, is in the following terms :—'Declaring always that the provisions of this Act shall not be construed to extend to the case of Teaching Elders or Theological Professors in Universities, inasmuch as their proper and peculiar function consists not in ruling in a particular Congregation, but in teaching.'

Certificate *bonâ fide* as to an Elder acting.

7. Although through long practice the date and duration of the General Assembly's ordinary sittings may be regarded as fixed for a Thursday in the month of May not earlier than the 17th of that month, and not later than the 24th, and for ten days in succession thereafter, exclusive of the Sabbaths, there is, nevertheless, no other

Date and duration of Meeting.

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authority for this practice except the determination of each preceding Assembly. Either the preceding Assembly, or the Church at large, through some adequate combination in an emergency, might resolve to have a General Assembly called at a different period of the year. On the same principle, the question as to the *place* of meeting is quite an open one each year, although considerations of convenience and propriety have, since the Revolution, prevailed in favour of Edinburgh as the settled locality for the ordinary meetings of Assembly. But the Free Church Assembly met in Glasgow in October 1843, and the Free Church Assembly of 1845, after concluding its sittings in Edinburgh at the usual period, adjourned to meet again in Inverness in the month of August, on the ground that important business affecting the interests of the Church in the Highlands could not be overtaken during the sittings in Edinburgh. Also the Free Church Assembly held its meetings in Glasgow at the usual time in 1878.

Opening of  
General  
Assembly, etc.

8. By long-established practice, which is maintained and regulated through the instrumentality of a Committee of the last Assembly and of the Clerks of Assembly, the Commissioners elected by the several Presbyteries convene together for public worship, at twelve o'clock noon on the day appointed, either in some church selected for the purpose, or in a room or hall set apart as the place of meeting for the Assembly. The Moderator of the last General Assembly officiates at this diet of worship, and preaches the gospel in such manner as he thinks most suitable for the occasion. Before pronouncing the blessing, he announces that the General Assembly will be constituted immediately thereafter, mentioning at the same time the place of meeting.

Moderator of last  
Assembly pre-  
sides at first.

9. By the same long-established practice, the Moderator of the last Assembly, if his name appear in the list of Commissioners elected by his Presbytery, takes the chair as in the meantime Moderator of the Meeting of Commissioners now convened. If his name do not appear in that list, the Pastor, or Ordained Minister, though not a Pastor, who, being named among the elected Commissioners, has more recently filled the office of Moderator of the Assembly than any other elected Commissioner, is called to preside in the meantime. It is of course constitutionally in the power of the Commissioners assembled to appoint any Pastor or Ordained Minister belonging to their number to take the chair during the preliminary business, as much as it is in their power to elect their permanent Moderator. Dr. Thomas M'Crie was Moderator of the Free Assembly in 1856. But before the election of Commissioners to the Assembly of 1857, he had become a Theological Professor in the Presbyterian Church of England, and had ceased to be a Minister of the Free Church of Scotland. He, nevertheless, by invitation, officiated at worship, and preached the sermon previously to the opening of the Assembly of 1857. But when the Commissioners proceeded to constitute the Assembly, Dr. James Henderson was called to the chair, having been Moderator in 1855, and being one of the elected Commissioners in 1857.

10. The person acting as Moderator at the opening of the Assembly constitutes the meeting with prayer, and the business proceeds upon the assumption, in the meantime, that the Commissions from the Presbyteries are all in due form, and that all the Ministers and Elders named in those Commissions have been duly elected. In case, however, of any vote being taken previously to the examination of the Commissions by a Committee, it is always clearly understood that the result of the vote may possibly be altered through that examination.

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Constituting of Assembly.

11. The old practice of reading the whole list of the Commissioners has been recently abandoned, and, as a printed list of them is in the hands of all the members, the names of the Presbyteries are read, the attention of members being called to the list, and corrections invited. This is done immediately after the Assembly has been constituted. The order in which the list is printed varies from year to year, the returns from each Synod being taken in order of rotation. The membership having been thus so far ascertained, the next business is the choice of a Moderator. That choice is absolutely free. Any member may propose any Pastor or Ordained Minister, though not a Pastor, as a candidate.<sup>1</sup> But the office is so important that it is felt to be inexpedient to leave the nomination to it practically uncertain till the day of meeting. Consultations are commonly held beforehand, in order that the person to be elected may have the opportunity of preparing himself for his duties. The proposal of his name, therefore, by the retiring Moderator, and the seconding of that proposal by some distinguished member of the House, have thus come to be a matter of course, except on very extraordinary occasions. But although a matter of course, the formal business of carrying out what is intended is usually so dealt with by the proposer and the seconder as to put life and interest into the transaction.

List of Commissioners read over.

Election of Moderator.

12. As soon as the Moderator has been elected, it is usual for one of the Principal Clerks of Assembly, accompanied by one or two senior Ministers and Elders, to go out of the House and announce to him his election. He then comes in, accompanied by these brethren, and the retiring Moderator having made the same announcement in a more formal manner, gives to him the right hand of fellowship, and vacates the Chair, which is immediately occupied by the elected Moderator, who proceeds to deliver an Introductory Address.

His introduction to the Chair.

13. After the delivery of the Moderator's Address, the old course of procedure required that the Standing Orders should be read over. These Standing Orders are rules adopted by the Assembly for regulating its own procedure, and such procedure of its Committees, its Clerks, its Officers, and the Inferior Church Courts as is dependent on or essentially connected with its own procedure. But as these Standing Orders are now printed, and as copies of them are in the hands of all the Commissioners, it is usual to supersede the reading of them, and simply to intimate and minute that they are held as read. It is necessary that special

Standing Orders held as read.

<sup>1</sup> In 1846, the Assembly elected Dr. Robert J. Brown, Professor of Greek at Aberdeen, to be their Moderator. He was an Ordained Minister, but was returned as a Ruling Elder to the Assembly.



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attention be paid to them at each Assembly, because alterations are frequently made upon them from year to year. They are given in the Appendix, as they exist at the present date. But a copy of them, with the latest alterations, ought to be in the hands of every Minister and of every Kirk-Session or Deacons' Court.

Vacancies filled  
up.

14. After the Standing Orders have been held as read, it has been customary to fill up any vacancy which may exist in any office of importance to the conduct of the business, such as that of Principal or Depute Clerk, or Chief or Second Officer.

Clerks of  
Assembly.

15. The General Assembly of a Presbyterian Church has the same necessity for a Clerk or Clerks which any Inferior Presbyterian Court has. The General Assembly of the Free Church of Scotland feels this necessity in a tenfold degree beyond what is experienced by any Kirk-Session or Presbytery or Provincial Synod. For the great multiplicity of its business, combined with the comparatively small amount of time within which it must be transacted, would prevent it from working efficiently without the instrumentality of more than one person having familiar acquaintance with all the parts of its procedure, and considerable experience in the affairs of the Church generally. Since 1843, or from a date not much later, it has had two Principal Clerks, both of them being Ministers, and one Depute Clerk, being a Ruling Elder and a man accustomed to secular business. By a recent decision (Assembly 1868, Sess. 5) it has been arranged that the Principal Clerk first appointed shall be designated the Senior Principal Clerk and the other the Junior Principal Clerk. (See Appendix III. 5.) These Clerks, at their appointment, solemnly promise to discharge their duties faithfully. They have salaries paid out of the funds at the disposal of the Assembly.

Officers.

16. The General Assembly also appoints one or more Officers. It has usually had a Chief Officer and a Second Officer, who are directly responsible to the Assembly, and promise to perform their duties faithfully. They have salaries out of the funds at the disposal of the Assembly. During the sittings of the Assembly, they are usually authorized to employ several other temporary Officers, for whom payment is provided out of the same funds.

Committee to  
arrange business.

17. After the filling up of vacancies in such offices as those now mentioned, the Assembly appoints a Committee for the arrangement of its business. It then appoints a Committee on Bills and a Committee on Overtures. These Committees correspond to the similar Committees already mentioned as appointed by Provincial Synods. The practice is, that each of them shall consist of one half of the whole Assembly, the Members being equally distributed between them. It is usual to constitute the Committee on Overtures as a Committee also for revising the Commissions to their representatives which the Presbyteries have transmitted, and which are in the hands of the Clerks. For any further particulars respecting the several Committees here mentioned, it seems better

Committees on  
Bills, Overtures,  
and Commissions.



to refer to the Standing Orders than to go more into detail in this Manual. (See Appendix III. 5.)

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18. It is the uniform practice for the Assembly to take up no further business at this diet, except proposals which arise out of peculiar circumstances over which the Assembly has no control, —such as a proposal for a Committee to prepare an Address to Her Majesty on the recurrence of the day appointed for the keeping of Her birthday. After arranging any such business of an interesting or pressing character, the Assembly usually adjourns in the afternoon, not to meet again till the next afternoon, in order that time may be afforded for the Meetings of the Committees on Bills and Overtures, and of the Committee for arranging the business.

Committee to prepare Address to Queen.

19. The practice of the Free Assembly is to occupy the greater part of the afternoon diet on the second day of the Assembly's sittings with devotional exercises. These are conducted not only by the Moderator but by several Ministers named by him. These exercises are accompanied by no other business, except such as that of receiving a Report from the Clerks on the subject of the Collections made throughout the Church on behalf of Missions and Education and kindred objects, or that of hearing Reports on the State of Religion and Morals, or that of naming Ministers to preach at several diets of the two succeeding Sabbaths in the place of the Assembly's meeting, or that of fixing upon any business to be taken up at the evening diet of the same day, after the Reports of the Committees have been disposed of.

Second day.

Devotional Exercises.  
Ministers to preach.

20. The first ordinary business usually taken up at the evening diet on the second day of meeting is the Report of the Committee on Overtures as a Committee on Commissions. There may be an appeal or dissent and complaint against any judgment of that Committee. After receiving the Report, the Assembly hears the parties in such appeals or complaints in regular form, and sustains or rejects any particular Commission, or the election of any particular Minister or Elder, as it judges right. If the requisite certificate from a Kirk-Session on behalf of a Ruling Elder be not forthcoming when the Commission is otherwise good, the usual deliverance is a declaration that the Ruling Elder referred to cannot take his seat until the omission be supplied, but that if the certificate shall be afterwards produced his name shall be added to the Roll.

Report of Committee on Commissions.

21. The Reports from the Committees on Bills and Overtures are then taken up. Any appeals or complaints from the decisions of these Committees are heard and disposed of in regular form. The matters decided by these Committees all relate to the transmission or non-transmission to the Assembly of the papers brought before them, or to the question as to whether or not these papers form a part of its legitimate business. After the Assembly has disposed of these Reports, the amount and nature of the business before it are within its view, except in so far as any other business may spring out of Reports from Standing or Special Committees, or may be originated through fresh Reports from the Committees

Bills and Overtures.

CHAP. IV. on Bills and Overtures. It is not the practice, however, to allow these Committees to meet after the first Monday during the sittings without special cause being shown.

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Special cause for additional Meetings on Bills and Overtures.

22. The Committee for arranging the business of the Assembly may meet at any period of any day during the sittings, except while the Assembly is itself constituted, so as either to be engaged in devotional exercises or in the transaction of business. This Committee reports from time to time as occasion requires. If its reports be approved of by the Assembly, the business is arranged and intimated accordingly.

Committee to arrange Business

23. Anything further as to the order and conduct of business is regulated by the Standing Orders, with the exception of the practice followed at the last diet of the sittings.

Last Diet.

24. At that diet, after other business has been concluded, the Assembly appoints a Commission, consisting of all the Ministers and Elders who are members of Assembly, and also of one additional Minister, who is named by the Moderator. (See Supplement.) Protestations are then called for, that is, an opportunity is given to any one to protest that some decision of an inferior Court has become final, because some party has failed to prosecute his appeal or complaint. Thereafter, the time and place for the meeting of the next General Assembly are appointed. The Minutes of that whole day's Sederunts are read and disposed of, and the Moderator delivers an address, after which he declares the Assembly dissolved, in the name of the Lord Jesus Christ, the sole Head and King of the Church, and leads the concluding devotions by carrying his audience with him to the throne of grace in prayer, by giving out and causing to be sung a portion of Psalm exxii., and by pronouncing the apostolic benediction.

Duties of Moderator.

25. The duties of the Moderator of the General Assembly, apart from the opening and closing Addresses, are the same in substance with those of the Moderator of a Presbytery or Provincial Synod. (See Chap II. Part 1.) Practically, there is a great difference between his position and that of any other Moderator. But the difference arises from the higher functions and more widely extended jurisdiction of the Court over which he presides, and not from any difference in the relation which his office gives him to that Court. From the place assigned to him in the Assembly's Committees, and from the circumstance that he is always, if present, elected as Moderator of the Assembly's Commission, he is practically raised to a dignity which lasts during the whole interval between the close of one meeting of Assembly and the commencement of another. But, strictly speaking, his office has no existence after the dissolution of that Assembly which chose him to be their Moderator. During the sittings of Assembly he may be requested or instructed, as its organ or representative, to act in various ways, which circumstances may require or suggest. In the absence of the Moderator, it is usual for some Minister who has been Moderator of a previous Assembly, and who is a Member of the present one,

to take the Chair. If any question come before the Assembly in which the Presbytery or Synod of which the Moderator is a member are parties, he must, of necessity, vacate the Chair, which is usually taken in the meantime by some former Moderator who is a member of the Court, but not a member of that particular Presbytery or Synod. Any further particulars respecting the duties of the Moderator may be gathered from the Standing Orders.

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26. The Clerks of the General Assembly have the same kind of functions and responsibilities which the Clerks of other Church Courts have. But the peculiarity of the Court, as the Supreme Representative Court over a widely extended Church, occasions practically no small amount of peculiarity in their duties. The particulars which create this peculiarity are not defined by any written law or rules, nor can they be easily stated. They are determined by the strong pressure of necessity and convenience, in the preparation, the conducting, and the carrying out of the Assembly's business. It is usual for one of the Principal Clerks to take the whole charge of expediting the several parts of the arranged business in its order, of minuting the whole proceedings, and of publicly announcing the determinations. The other Principal Clerk is called upon to watch the procedure, so as to be ready for the reading of necessary documents, for the calling of parties to the bar, and for giving due attention to anything needful which, under the pressure of business, might otherwise be overlooked. The duties of the two Principal Clerks may be mutually interchanged according to their pleasure. In the inferior Church Courts, it is a good rule to make sure, as far as possible, that the Minute respecting any subject is matured and written out before the Court pass from that subject to another. But this rule cannot possibly be observed in the General Assembly. The business is often so multifarious and varied, even while it is easily and rapidly disposed of, that the Clerk cannot, at the time, do more than take such a note as will enable him to write out the Minute afterwards. Great responsibility is thus made to rest upon the Clerk. But this responsibility has been in a considerable measure lightened in recent years, while the accuracy of the Record in its substance has been secured by the practice of having everything important in the Minute printed in a paper called the Daily Proceedings, a copy of which is delivered to every member of Assembly at an early hour of the next morning. Thus, at the reading of the Minutes at the commencement of the forenoon diet, any member may be prepared to correct any inaccuracy before they are approved of. It is usual for the Depute Clerk to take charge of all those branches of the Clerkship which require to be transacted in an office or place of business. All needful documents ought to be sent to him from Presbyteries, Synods, and other parties. It lies with him to prepare cases and documents for the Assembly, to execute the Assembly's instructions, obtaining the approbation and signature of one of the Principal Clerks, or of the Moderator, when requisite; to prepare Extracts of Deliverances for parties and Com-

Duties of Clerks.

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mittees; to transmit them or issue them after they have been certified by the Principal Clerk, and to have the Minutes engrossed in a permanent Record, which must be signed both by the Moderator and by that Principal Clerk who is responsible for the Minutes. Books and documents belonging to the Assembly are usually intrusted to the custody of the Depute Clerk. It lies with him to transact business with printers and publishers on the Assembly's behalf, and, subject to the instructions of Committees of Assembly, to arrange practically whatever is required for the convenience of the Assembly or its Commission, or for accomplishing its determinations. He also acts as Treasurer for the funds available for the general expenses incurred by authority of the Assembly which are not intrusted to the charge of any Committee for the promotion of a specific object.

27. The adjustment of the duties of the Clerkship between the two Principal Clerks and the Depute Clerk has hitherto been, for the most part, in accordance with the description now given. But it is not exactly defined by any rules. And, to a large extent, it is made by agreement among themselves.

## Duties of Officers.

28. The Chief Officer and the Second Officer of the Assembly are instructed from time to time in their duties by the Moderator or the Clerks, or by any Committee of Assembly authorized to that effect, or by the Assembly itself in open Court.

## Allowance to Moderator, and Salaries to Clerks and Officers.

29. The allowance to the Moderator for his expenses, as well as the Salaries to the Clerks and Officers, are proportioned to what the Assembly believes to be practically the amount of their respective work and obligations.

30. Any further information as to the action of the Clerks or Officers may be gathered from the Standing Orders. (See Appendix III. 5.)

## The Legal Adviser and the Agent.

31. The General Assembly appoints a member of the Scottish bar as Legal Adviser to the Church, and a Writer to Her Majesty's Signet as Agent for the Church; both being Ruling Elders of the Church.

## Openness of Court.

32. The General Assembly is an open Court. But, when the nature of any subject before it requires it to do so, it is accustomed to meet with closed doors.

## Quorum.

33. Strictly speaking, three Members, including two Ministers, form a quorum of the General Assembly, although, of course, its business is never carried on with so small an attendance.

PART II.—*Powers and Functions of the General Assembly.*

## Nature of Assembly's Power.

The scriptural principle, in accordance with which the General Assembly has any power or discharges any functions, is precisely the same with that whereby a Kirk-Session exists and performs the part already set forth in this Manual. Like the Kirk-Session, the General Assembly exercises rule ministerially under Christ, according to His Word, and in prayerful consultation. It exercises this rule in spiritual matters over all the Congregations, all the Kirk-

Sessions, all the Presbyteries, and all the Provincial Synods of the Church. It is called upon to promote by its deliberations the religious interests of the people throughout the bounds of its Communion. Anything affecting those interests may require to be considered by it, and authoritatively judged of, when brought in due order before it. Its decisions are without appeal or complaint to any human tribunal. But it must be borne in mind—(1.) That the Free Church does not claim this power of final judgment for her Assembly except in *spiritual* things, and that by the term *spiritual* she refers exclusively to what concerns the proclamation of Christ's Word, the dispensation of His ordinances, and the fulfilment of His commands relative thereto, and not at all to any kind of command over temporal resources; (2.) That the Free Church maintains most emphatically that no authority in the hands of fallible men, such as the authority of the General Assembly, has any absolute rule over the consciences of believers, and that every one of her members may appeal to the Great Head of the Church against any such merely ministerial authority; and (3.) That what is in some respects the supreme power of the Assembly, is very much restrained by more than one arrangement that has been devised for the purpose of keeping in continual view the nature of its origin and position as a representative body, elected by the Presbyteries from year to year for specific purposes.

1. As a Court of Review, the General Assembly takes up and considers References, Complaints, Appeals, and Petitions, on the same principle which regulates the procedure thereanent of Presbyteries and Synods. Any rules peculiar to the Assembly in this branch of its functions may be found in the Standing Orders.

References,  
Complaints,  
Appeals,  
Petitions.

(1.) No question which belongs to the jurisdiction of any one of the inferior Courts can be determined by the Assembly until it has first been dealt with, to some extent at least, in that inferior Court, and unless it has been duly brought up by Reference, Complaint, Appeal, or Petition. The Assembly may, indeed, originate any question which might have been originated in a Presbytery or Kirk-Session. But, if it do so, the first step taken must be to remit it to that Presbytery or Kirk-Session, unless, on account of some extraordinary emergency, there be sufficient ground for assisting or specially instructing the Presbytery or Kirk-Session, or on account of the Presbytery or Kirk-Session being under discipline, for superseding it, and appointing either Assessors or a Special Commission to act in its room.

First step when  
Assembly  
originates what  
belongs to  
Inferior Courts.

(2.) It is undoubtedly in the power of the Assembly, when it sees sufficient cause, to summon any Member or any Court of the Church to appear at its bar, or at the bar of its Commission. It may also send precise orders to particular Synods, Presbyteries, and Kirk-Sessions, prescribing the exact course of their procedure in special cases, and giving instructions or prohibitions at its pleasure, provided it keep within the ecclesiastical laws and constitution. But the spirit of those laws and of that constitution evidently requires that such exercise of supreme authority be entered

Power of  
summoning any  
Member or Court  
of Church.



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## PART II.

Records of  
Synods.Transmission  
through Com-  
mittee on Bills.Power of  
constituting  
Synods and  
Presbyteries,  
etc. etc.Action upon  
Overtures.Transmission of  
Overtures by  
Committee.Procedure as to  
Ordinary Over-  
turesOvertures for  
new Law, etc.

Barrier Act.

upon with great caution, and only when a clear necessity has arisen.

(3.) As part of its duty in the Department of Review, the General Assembly examines the records of all Provincial Synods, and pronounces judgments regarding them, on the same principle with that which is followed out by Provincial Synods in the examination of the Records of Presbyteries. (See Standing Orders, Appendix No. III. 5.)

(4.) In all cases of Reference, Complaint, Appeal, or Petition, the Extracts, and other papers necessary, must be presented to the Committee on Bills, accompanied by a Petition to that Committee, praying them to transmit the same. This Petition should be signed by some party having interest, or by some person acting for such party. (See Standing Orders, Appendix No. III. 5.)

2. The General Assembly has the power of constituting new Synods and Presbyteries, and of dividing or altering old ones. The Assembly also fixes the times for the stated meetings of Synods, and determines at what places Synods and Presbyteries shall meet in ordinary circumstances, and without special reason to the contrary. Any such special reason ought to be carefully minuted.

3. The General Assembly receives, considers, and takes action upon Overtures from Synods, Presbyteries, or Members of the House. It sometimes, of its own accord, appoints a Committee to prepare and present an Overture.

(1.) Overtures, not originating in the Assembly itself, must be presented to the Committee on Overtures, and by them transmitted to the Assembly, before they can be considered.

(2.) Overtures may contain suggestions as to procedure which the Assembly has entirely in its own power, such as the appointment of Committees, and the instructions to be given to them; representations to be made to Government or to other parties; deputations to be sent on Commissions for visiting parts of the Church; Pastoral Addresses; communications to be made to other churches; or special steps competent to the Assembly to be taken with reference to any matter of interest. In considering Overtures of this kind, the Assembly acts entirely by its own authority, and comes to such judgment or determination on the subject of them as it deems suitable. When an Overture has been taken up and read by one of the Clerks, it is usual to hear, in the first instance, some Member of Assembly who has been concerned in introducing it, whether in a Synod or Presbytery or otherwise. But no one is called as a party, and all Members of Assembly are equally entitled to vote upon the question raised.

(3.) Overtures may suggest the enactment of some new law, or the alteration of an existing law. In that case, they must be dealt with on the principle of the Barrier Act, by which the legislative functions of the Assembly are limited and regulated. (See Section 4.)

4. Although the General Assembly is invested with the power



of regulating the whole action of the Church in its Synods, Presbyteries, and Kirk-Sessions, still it is not regarded as having any lordly or absolutely binding authority. It is expected to act ministerially under Christ, and to carry out such rules as appear to harmonize with His own instructions in His Word. Consistently with the principles of Presbyterian Government, all reasonable means ought to be taken for keeping the action of the Assembly in accordance with the general mind of the Church, inasmuch as all the Ministers and Ruling Elders are entitled and called upon to judge for themselves as to the mind of the Great Head of the Church. Still it is held that, as Christ requires good order to be maintained in His Church, it is needful for the Assembly to act legislatively as well as judicially. But a particular course of procedure has been devised for preventing any innovation being hastily introduced by a single Assembly, and for securing due deliberation and harmony in the enactment of new laws, and in the alteration of old ones. An Act (commonly called the *Barrier Act*) was passed in 1697 (See Act ix. 1697) through which the course of procedure referred to has arisen.<sup>1</sup>

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Barrier Act.

(1.) When the General Assembly approves of a proposal for fresh legislation made in an Overture or Overtures transmitted to it through the Committee on Overtures, or prepared by another Committee, according to the Assembly's instructions, it is not permitted to pass the proposal at once into a law that shall have permanent effect. It can only agree to transmit the same in the form of an Overture to the several Presbyteries of the Church for their opinion. Action under it.

(2.) Each Presbytery, in giving its opinion, must either approve of the Overture *simpliciter*, and without alteration, or it will be held as disapproving of it. (See Chapter II. Part II. Division III. Section 16.)

(3.) The Clerks of Assembly are instructed to have the Returns from Presbyteries, as to their approval or disapproval of Overtures, printed in a tabulated form, and put in due time into the hands of Members of the next General Assembly. (See Standing Orders, Appendix V.)

(4.) The next General Assembly appoints a Committee for the purpose of classing the returns to the Overtures transmitted, and reporting to that Assembly what the result appears to be.

(5.) If it appear that a majority of the Presbyteries have not approved *simpliciter* of any Overture transmitted, the Assembly may either pass from the subject or re-transmit the Overture either in the same form as before, or with alterations. But the Assembly has no power to pass it into a permanent law.

(6.) When it appears that a majority of Presbyteries have approved *simpliciter* of any Overture transmitted, the General Assembly, if it be of the same mind as the preceding Assembly, may pass that Overture into a Standing Law of the Church. But it is a mistake to suppose that there is any obligation upon the Assembly

<sup>1</sup> App. III. 5.

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## PART II.

to do so, or that the matter is absolutely settled through the approval by a majority of Presbyteries. That approval is simply the necessary preliminary to make it competent for the Assembly to pass such an Act. But the new legislation is effected only by an Act of the General Assembly passed through its own free and independent voice.

## Interim Acts.

(7.) If the object of an Overture transmitted to Presbyteries appear to any General Assembly as of urgent practical importance, it is competent for that Assembly, while transmitting the Overture to Presbyteries, to pass it, at the same time, into what is called an Interim Act. Such an Act has force only till the meeting of the next Assembly.

Remit not under  
Barrier Act.

(8.) The General Assembly may remit any subject to Presbyteries for their opinion apart from the terms of the Barrier Act, when it is not proposed to found any legislative change or declaration upon the returns.

## Declaratory Acts.

5. It is competent for the Assembly to pass Declaratory Acts. These are Acts which declare what the Assembly understands the law of the Church to be. Such an Act may be passed, without transmission to Presbyteries in terms of the Barrier Act, when it is generally agreed that the declaration is in accordance with the old law. But if there be much difference of opinion on the subject, and if the point enforced be new, in any considerable measure, to the existing Ministers and Ruling Elders, it has been held that, before the passing of such an Act, an Overture on the subject ought to be transmitted to Presbyteries, in terms of the Barrier Act.

Substance of Act  
may be applied.

6. There are some subjects in which the Assembly takes action to which the Barrier Act cannot be strictly applied, such as the rules to be observed in the administration of the Sustentation Fund, but to which, nevertheless, it has been found expedient to apply the substance of the principle involved in that Act. In such cases, the same rigidity of interpretation is not applied in judging of the Returns from Presbyteries, which is exercised in what belongs to the proper legislation of the Church.

Committees, two  
classes :

7. The General Assembly has inherently the same power of appointing Committees, which belongs to a Synod or Presbytery. There is a difference in the case of the Assembly, arising from the circumstances in which it meets, and its peculiar functions. This difference appears in the appointment of two entirely different classes of Committees.

(1.) Assembly's  
Business during  
Sittings.

(1.) The first class consists of those which are intended exclusively for the purpose of expediting the business of the Assembly during its sittings. In this class are included the Committees on Bills, Overtures, and Commissions; the Committee for arranging the business; the Committee for classing Returns to Overtures; the Committee for examining the Records of Synods, the Commission Record, and the books of Standing Committees; the Committees appointed to consider cases of application for Colleagues and Successors, for the sanctioning of Pastoral Charges, for Sales and

Transferences of Property, and for expediting the trials and licensing of Students; the Committee for preparing an Act anent Collections, and other Committees, the appointment of which springs out of the business, and whose final reports must be given in and considered before the close of the Assembly's sittings. Any further information respecting these Committees will be found in the Standing Orders. (See Appendix No. III. 5.)

(2.) The second class of Committees embraces all those which are appointed to carry out the operations undertaken by the Assembly, and to prosecute the Assembly's objects during the year that intervenes between the close of one Assembly and the opening of another. This class of Committees admits of large subdivision, in consequence of the very great variety and extent of the operations and objects referred to. It includes the Committee on Assembly Arrangements, the Committee on the Sustentation Fund, the Committee on the Home Mission, the Committee on Education, and all the other Committees which are required for attending to the action of the Church, either in its moral and spiritual, or in its financial affairs, throughout the limits of Scotland. It includes also the Committee on Foreign Missions, the Colonial and Continental Committee, the Committee for the Conversion of the Jews, and other Committees of a kindred character. Some of the various Committees in this second class have acquired a permanent character, in consequence of the permanent importance of their objects. Others of them, being called into existence only by special and temporary circumstances, are speedily discontinued. Hence arises the division which has been made of them into Standing Committees and Special Committees, or otherwise. A full statement of their classification will be found in the Standing Orders. (Appendix No. III. 5.)

2.) Prosecution of objects during year.

8. The General Assembly has the power of appointing Collections to be made at the Church-doors of all the Congregations, in support of the objects for which the second class of Committees are appointed. It usually exercises this power by passing an Act anent Collections, upon the Report of a Committee to that effect; the Committee having been appointed during the sittings of the same Assembly. (See Appendix No. IX. 1.)

Appointment of Collections.

9. After any judgment has been come to by the General Assembly, which has not been unanimous, a member who dissents from it has the same right of entering his dissent against it which he has in an inferior Court. This dissent, in order to be received, must be tendered immediately after the decision has been pronounced, and before the Assembly proceeds to any other business. If the reasons for it be given along with it to the Clerk, in writing, they are entered upon the Minute. But if they are not given in till afterwards, they are not so entered, but are inserted in a separate Record of Dissents. When a dissent has been tendered by a member immediately after the pronouncing of the judgment dissented from, it is competent for any other member or members who

Dissents

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were present when it was pronounced to intimate *his* or *their* adherence to the dissent at any subsequent diet of the Assembly's sittings. But no one's adherence can be received who was not so present.

Effect of Dissent.

10. The General Assembly being the Supreme Court of the Church, there is no room for any other procedure against its decisions except that of dissent with reasons. There is no room for Complaint or Appeal. By dissenting with reasons a man keeps his conscience clear from the responsibility of what he does not approve of. And his appeal goes up to the Head of the Church or high.

Mode of executing decisions.

11. The General Assembly sometimes takes the whole business of intimating and executing its own judicial sentences into its own hands. Most frequently, however, it remits to the Presbytery or Kirk-Session of the bounds to carry out its determinations.

Extracts.

12. Parties in cases that have come before the General Assembly are entitled to Extracts, as in the Inferior Courts. The fact that the Assembly is supreme, and that thus there is no room for Appeal or Complaint, makes a difference as to the position of parties with reference to Extracts. But with a view to the execution of the Assembly's orders, and the carrying out of its objects, there is a general necessity for Extracts containing its Deliverances. Such Extracts are largely required by Church Courts, Committees, and individuals. Consequently the rule in practice has come to be more liberal as to the giving of Extracts by the Clerks of Assembly, than it is as to the giving of them by the Clerks of Synods, Presbyteries, and Kirk-Sessions. The Clerks of the Inferior Courts are not allowed to give Extracts without the special orders of those Courts. But it is understood that the Clerks of Assembly, without any formal instructions, give Extracts of Deliverances to all parties who have any kind of interest in those Deliverances. In a very extraordinary case, the Clerks might think it requisite to consult the Assembly or its Commission, or the Committee on Assembly Arrangements. But such is not the usual practice, nor could it be so conveniently. For most of the Extracts are required to be rapidly furnished immediately after the dissolution of the Assembly. The Extracts are usually prepared by the Depute Clerk, and then revised and signed by that Principal Clerk who is responsible for the Minutes.

No fees are charged for Extracts given by the Clerks of the General Assembly.

Expenses of Assembly.

13. The General Assembly is allowed to exercise the power of appointing collections to be made or contributions to be given from local funds under charge of Deacons' Courts, or from central funds under charge of Committees, for the purpose of defraying its needful expenses, the needful expenses of its Commission or Commissions, and of such of its Committees as have no funds of their own. These purposes are at present accomplished by combining four sources of revenue, viz.,—(1.) A small contribution required

from every Deacons' Court, in connexion with the transmission to it of a copy of the printed Acts and Proceedings of the last Assembly, a copy of the Volume containing Reports of that Assembly's discussions, a Statement of the Public Accounts for the year, and other documents; (2.) The amount of Collections made at the door of the Assembly Hall, during the sittings of the Assembly and its Ordinary Commission, and on the several occasions of worship in that Hall during the two Sabbaths that occur between those sittings, with the exception of that made on the first occasion, which has for some years been appropriated to the Society for the benefit of the Sons and Daughters of the Free Church Clergy; (3.) The proceeds from the sale of Tickets of Admission to the various parts of the Assembly Hall during the sittings of Assembly; and (4.) A particular rate of contribution required annually from each Committee of Assembly which obtains funds annually by any appointed mode of collection.

14. The General Assembly appoints Theological Professors and Lecturers, after receiving a Report from a Standing Committee. (See Act X. Assembly 1859, Appendix IV.)

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PART II.

Appointment of Professors.

## SUPPLEMENT TO CHAPTER IV.

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### *The Commissions of Assembly.*

1. The Ordinary Commission is appointed by every General Assembly in the manner already explained (See Chap. IV. Part I. Sect. 24.) The long-continued practice of thus appointing it has made it appear like a fixed Court in the constitution of the Church. But it is not so, and its existence in any one year depends upon the passing of a special Act by the General Assembly.

Relative position.

(1.) The Act requires a quorum of thirty one members, sixteen of them being Ministers, to make a valid meeting of this Commission.

Quorum.

(2.) Three stated meetings are appointed for it, viz., the Second Wednesday of August, the Third Wednesday of November, and the First Wednesday of March. Previously to the Disruption in 1843, there were four stated meetings, the first of them being held on the day immediately following the concluding Sederunt of the Assembly. But the Free Church Assembly, not having to consult with the authorities of the State as the Established Church Assembly feels itself called upon in courtesy to do with reference to the continued presence of the Royal Commissioner at its sittings, does not usually adjourn until it has finished its business, and has no work for a Commission to do till August.

Meetings.

(3.) The Act empowers the Commission to meet oftener than at the stated diets, 'when and where they shall think fit and convenient.' But no private process can be determined by the Com-

Extraordinary Meetings.

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mission except at one or other of the three stated diets. There is some necessity for a more exact definition by the Assembly as to the manner in which an extraordinary Meeting of its Commission may be called and duly constituted. For although it has been usual for the Moderator of the last Assembly to give public notice that there is a desire for an extraordinary Meeting of Commission at a particular place and time, when that desire has been expressed to him, this is merely a matter of convenience. The Moderator of last Assembly has no authority in the matter. In the absence of any distinct definition on the subject, it has been held by some that, when a requisite quorum of the Commission find themselves assembled together and choose a Moderator there is a legal meeting. But were this idea to be recognised, there might be two meetings in different places at the same time, each of them claiming to be a legal meeting of the Assembly's Commission. Others would interpret the Act as allowing of no meeting which does not take place in consequence of the Commission having adjourned at a stated meeting, to meet again at a particular time and place, or having instructed their Moderator to call a special Meeting if a particular emergency arise. It seems to be most generally held that, in one way or other, the Commission may meet upon an emergency in order to fulfil the instruction to see that the interests of the Church shall not be injured by any unexpected circumstance. See Par. (7.)

Moderatorship.

(4.) When the Commission meets, it recognises no special position as belonging to the Moderator of the last Assembly, but, being empowered to choose its own Moderator, it proceeds to an election. It usually fixes upon the Moderator of last Assembly, if he be present.

Force of decisions in private causes.

(5.) What is determined at one diet as to private causes, cannot be altered at another diet, but continues in force, unless disapproved of by the next General Assembly.

Finality of Judgments.

(6.) In the particular causes and matters referred to the Commission, its sentences are final. In judging of these causes and matters, it acts as the Assembly does. But it cannot execute its own sentences. If any one of them be disobeyed, the matter must lie over till the meeting of the next Assembly. Protests and complaints may be taken against sentences of the Commission, on the ground of their being *ultra vires*, or contrary to law, and the matter may be brought up to next Assembly. But no such process will justify disobedience in the meantime. If the Commission appear to have exceeded its powers, the next Assembly may censure those who have concurred in the sentence or sentences involved. If it appear to have acted in any way contrary to the Acts or Constitution of the Church, the next Assembly may overthrow and reverse its procedure.

Subjects that may be taken up.

(7.) The Commission cannot take up any cause or matter which has not been specially referred to it by the General Assembly, except when anything of public interest occurs, which is of general concernment to the whole Church. In this case, it is instructed to



advert to the matter, and to see that the Church do not suffer or sustain any prejudice which it can prevent, as its members shall be answerable.

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(8.) The proceedings of the Commission must be carefully recorded, and the Record must be submitted to the Assembly for examination. The Clerks of Assembly are also Clerks to this Commission. By a recent Act, the Commission is required to appoint at each of its Meetings a Committee to revise the Minutes of that Meeting, and a copy of the Minutes thus revised, is appointed to be sent to the Moderator for his signature, which must be obtained before Extracts can be given by the Clerks.<sup>1</sup>

2. From the account now given of the origin and constitution of the Ordinary Commission, it may be easily seen that, in the exercise of the same power by which the General Assembly appoints it, and gives to it the functions which it exercises, the Assembly may appoint Special Commissions at its pleasure. Extraordinary specialties in particular causes, and extraordinary emergencies in the state of the Church or the country, may justify, and have justified, the exercise of this power. But it ought not to be had recourse to lightly, and the employment of it ought to be jealously watched. For any method of procedure which in the smallest degree supercedes the ordinary action of the ecclesiastical constitution, appears dangerous, on Presbyterian principles, if it be carried at all beyond what the good of the Church demands.

3. The Clerks of Assembly are expected to act in the same way regarding Extracts in the case of the Ordinary Commission as they do in the case of the Assembly itself. Any question as to Extracts in the case of Special Commissions must depend on the terms of their appointment.

<sup>1</sup> App. III. 6.

## CHAPTER V.

## DISCIPLINE.

PART I.—*Principles and Processes common to all the Courts, or to two or more of them.*

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## PART I.

Scriptural  
character.

1. CHURCH DISCIPLINE is held to be of great use and necessity in our ecclesiastical system. It is regarded as belonging to that government which Christ has instituted in the visible order of His kingdom, and which, by His institution, is essentially distinct from the government of civil magistrates. The purpose of it is declared in our Form of Process (See Appendix, No. X., Chapter I. 3) to be, 'That the name of God, by reason of ungodly and wicked persons living in the Church, be not blasphemed, nor His wrath provoked against His people; that the godly be not leavened with, but preserved from, the contagion, and stricken with fear; and that sinners who are to be censured may be ashamed, to the destruction of the flesh, and saving of the spirit in the day of the Lord Jesus.' The object is thus a threefold one—the glory of God, the purity of the Church, and the spiritual good of the offender. When scripturally and prudently exercised, discipline becomes more a privilege than a punishment, as one of the ordinances granted to the professing people of Christ.

With whom it  
deals.

2. It deals chiefly with church members. But the adult children of members, and all adherents, are also amenable to it, when they fall into gross sin.

What is admitted  
as ground for  
action.

3. It admits of nothing as a ground for its action but what has been declared censurable by the Word of God, or by some act or universal custom of the Church agreeable thereto. It does not apply to every kind of sin, but to those sins only which occasion scandal, or tend, by their character, to bring open reproach upon the cause of Christ, or to interfere manifestly with spiritual edification. Inquisitorial watching of private conduct, ultroneous intermeddling with family concerns, or attempts to drag secret sins into light, are not encouraged by it. On the contrary, the Presbyterian system of action in it is fitted to discountenance and rebuke everything of that kind.

4. In all cases where the inconsistent conduct of a member of

When steps must be taken, and by whom.

Private Conference.

Old Scandals not to be revived.

Cases decided not to be renewed.

Church Court to consider first how far they have to do with a case.

the Church in any position has been flagrant, where a prejudicial report or *fama* is wide-spread, and where scandal has been raised, it is held necessary for that Church Court which, according to ecclesiastical rule, has at the time the most immediate jurisdiction over the party, to take steps for the formal exercise of discipline.

5. In cases where no palpable scandal has come into public notice, much wholesome discipline may be exercised by private conference, without the formality of an appearance before a Church Court. It is thought that the rule laid down by our Lord himself (Matt. xviii. 15) fully justifies the exclusive use of an affectionate and faithful private dealing by a pastor or ruling elder with an offending party, when the conspicuousness of the offence is not such as to make public or judicial action requisite for the vindication of truth or purity. Much good has been frequently accomplished in this way, when a rigid determination to call the party to account before a Church Court would have produced no other result than irritation and resistance. It is felt that a spirit of love and tenderness is essential to the efficacy of discipline. Accordingly, the suggestion is made in our Form of Process itself, that 'if amendment follow private admonition,' according to our Lord's will, this is the 'far better way of gaining and recovering a lapsed brother; whereas the needless spreading of a scandal does sometimes harden the guilty, grieve the godly, and is dishonourable to religion.' (See Appendix, No. X., Chapter II., Section 1. See also Part II.)

6. It is further laid down in the Form of Process, as a practical principle of Christian judgment, that while the several judicatories of the Church ought to take *timeous* notice of all scandals, a scandal which shall happen not to be noticed in order to censure for the space of five years should not be again revived, so as to enter in a process thereanent, unless it be of an heinous nature, or become again flagrant; but that the consciences of such persons ought to be seriously dealt with in private, to bring them to a sense of their sin and duty. (See Appendix, No. X., Chapter I., Section 4.)

7. No case of discipline, upon which a final decision has once been pronounced in regular form by a competent Church Court, can be renewed again by any process, unless it can be shown that new grounds of action have arisen which were not before that Court. An extreme instance might appear in which a proof of great irregularity in procedure might be allowed, so as to re-open the matter. But such an instance would be too extreme and peculiar to interfere with the general rule, that a question of discipline once disposed of by a Court of final jurisdiction, or by any Court, without regular appeal, complaint, or review in due time, is conclusively and irreversibly determined.

8. When any case involving discipline is brought forward in a Church Court, whether by information, petition, or otherwise, they are called upon to consider, first of all, whether the matter be one which they ought to enter upon in the circumstances; whether it be orderly introduced to them; and whether it be competent or con-

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## PART I.

Citation

stitutional for them to take it up, and discuss it themselves, without submitting it either to a superior or an inferior judicatory.

9. Before proceeding to consider the merits of any case of discipline, the Church Court is bound to ascertain that all the parties concerned have been duly cited to appear before them. Citation may be duly given either *apud acta*, as it is called, when parties being present at a meeting of the Court they are openly warned and summoned during the regular transaction of business, or by a written document bearing on it the cause of citation, and carrying with it the authority of the Church Court.<sup>1</sup> It ought to be issued in ample time before the day appointed for the appearance, so as to leave no excuse for absence on the ground of too short notice. It ought to be conveyed to the residence of the cited party or parties by the Officer of the Church Court, and the delivery of a copy of it ought to be certified in writing by two witnesses; after which, the Officer should return it, with the evidence of the summons having been executed, to the Clerk of the Court. At the meeting of the Court on the day appointed, the first step, after the due execution of the summons has been intimated by the Clerk, is to have the party or parties called at the door.

Second citation.

10. If, after a citation by the Officer has been duly executed, a party cited do not appear, a second citation ought to be executed in the same form and manner; and if, after its due execution, the party do not appear, it should be followed by a third.

*Apud acta*  
citation.

11. When, in consequence of an appeal, complaint, or reference from an inferior to a superior judicatory, a party has been cited *apud acta* to appear before the superior judicatory, there is no occasion for any further citation, provided the fact of the citation *apud acta* be inserted in the Minutes of the inferior judicatory, and appear in the Extract of Minute presented to the superior.

Censure for  
contumacy.

12. If a party do not appear after a third citation, or after a citation *apud acta*, which has been regularly recorded, and, if need be, intimated to the superior judicatory by Extract, and if no relevant excuse be adduced and verified, such party is liable to censure for contumacy.

13. Even in such a case as that referred to in Section 12, it may often be advisable to take evidence with relation to the *fama* or *charge* against the party, before censuring him for *contumacy*.

Modes of bringing  
up a case.

14. A case of scandal, requiring the exercise of Discipline, may be brought before a Church judicatory, either (1.) by an accuser or accusers, who may take the responsibility of representing it or giving information regarding it, or (2.) by some member or members of the Court stating that a *fama* has arisen which calls for ecclesiastical action.

Modes for  
carrying on a  
case.

15. The process of Discipline may go on, either by the accuser or accusers maintaining the charge before the Court, or by the Court itself investigating the *charge* or *fama* in the faithful discharge of duty, and proceeding therein according to the rules of the Church.

<sup>1</sup> App. XI. 2.

When an accusation of a scandalous or serious character has been lodged with a Church Court, or when information involving such a charge has been communicated to a Church Court, the party lodging the charge or communicating the information ought to be prepared to maintain and prosecute it in a competent manner. But the declinature or failure of the party to do so cannot absolve the Church Court from the obligation of taking what steps it can toward the exercise of a scriptural discipline in the matter.

16. When a case of *charge* or *fama* has arisen, the party involved therein may voluntarily appear before the Church Court having jurisdiction over him, either with the view of confessing the truth of the charge, or the existence or foundation for the *fama*, or with the view of demanding investigation for the vindication of his character. He may even be himself the first person to bring the matter under the notice of the Court. In every one of these cases, every other citation except that of *apud acta* may be dispensed with.

17. In a case of confession, the Court must take into careful consideration the character and extent of the confession, before accepting of it, or proceeding either to censure or to absolution from scandal. They must endeavour in a prayerful spirit to deal at once tenderly and faithfully with the offender.

18. In every case where there is no confession, and where the Court find good ground for dealing seriously with the charge or *fama*, timely notice must be given to the party accused of the names of witnesses, and of the character of any other evidence that may be brought forward against him. No Court of our Church would be justified in proceeding to take evidence against any one in regular form, with a view to censure, without previously giving him ample opportunity of knowing upon what evidence the charge against him will be maintained, or without affording him adequate time for preparing his defence.

19. Members of the Free Church, when duly cited by a competent Church Court to appear and give evidence in a cause, are bound to obey the citation, and if they refuse after three citations, are liable to be dealt with as contumacious, unless they can offer a relevant and satisfactory excuse.

20. The Court are called upon to cite witnesses at the instance of a party accused, as well as at their own instance and at the instance of accusers.

21. Before the regular examination of witnesses in support of a charge, the accused party is entitled to have an opportunity of stating any objection to the relevancy of the charge as stated, and to the competency of the proposed evidence. Reasons may be found sufficient to disqualify particular witnesses. But there is less disposition now than there was formerly in Church Courts, as well as in civil and criminal Courts, to allow weight to merely technical objections, so as to shut out light which might otherwise be obtained in a question of discipline. The tendency prevails rather

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PART I

Case of confession.

Consideration due to a confessor.

Notice to accused party.

Free Church witnesses.

Citation of witnesses.

Objections to relevancy, and to competency of evidence.

## CHAP. V.

## PART I.

Subscription of  
witnesses.Taking of proof,  
etc.Ordinary  
Members.Private admoni-  
tion.Relapse after  
profession.

to receive the testimony of witnesses on whom suspicion rests, with a careful remembrance of the measure of weight due to such testimony, than to reject it altogether.

22. Witnesses should be asked to subscribe their names to their depositions, as taken down by the Clerk of Court. If they cannot write, the Clerk is required to mark that they declare their inability to write; and the Moderator ought, in such a case, to subscribe the deposition, though not subscribed by the party.

23. The Church Court must proceed in an orderly way in the judicial taking of proof and hearing of parties on the merits. And, after having given opportunity, according to the rules laid down for its guidance, for a full representation of what can be urged on both sides, they should cause parties to be removed, and enter into deliberation with a view to judgment. The particulars of procedure under this head may be best seen in the subsequent sections.

PART II.—*Processes peculiar to the Kirk-Session.*

1. In all ordinary circumstances it lies with the Kirk-Session exclusively to take the first steps with reference to any occasion for the exercise of discipline over the ordinary members of a Congregation.

2. Many acts of manifest inconsistency with Christian practice may not, as single acts, require the formal interposition of the Kirk-Session as a body, but may more properly be dealt with on the principle stated in Part I., Section 6. Under this class may be included acts of drunkenness, breach of the Lord's Day, disobedience to parents, swearing, cursing, scolding, fighting, lying, cheating, or stealing. In looking at such acts, the Kirk-Session and the Members thereof are expected to consider whether the private admonition of persons alleged to be guilty, or even seen to be guilty of such scandals, or the bringing of them into public view, will tend most to edification, and to take action thereanent according to the best of their judgment. The ordinary course with reference to the offences now enumerated, when they appear as single acts, ought to be that the guilty parties be spoken to in private, and admonished by the Minister or by an Elder; and that, upon an acknowledgment of sin, and a promise to amend, no further steps should be adopted. (See Form of Process, Appendix No. X., Chapter III. 1, 2.)

3. If after admonition for a first act, and a profession of repentance in private conference with the Minister or with an Elder, a person be found relapsing into the same sin, he should, according to the letter of the old law, be called in regular form before the Session, unless he voluntarily make appearance before them, confessing his aggravated guilt. The spirit, however, of the old law is evidently in favour of much discretion and circumspection being exercised by the Session and its individual members in determining at what point a formal summons, or even a formal appearance, is necessary or desirable.

4. It is possible that a single act of any one sin in the list given



in Section 2, may be clothed with such circumstances as may be a just ground of formal process immediately, and involve even the necessity of suspension from the benefit of sealing ordinances. But, according to the words of the form of process, the weight of this is to be duly pondered. The existence of the circumstances referred to must not be hastily assumed.

5. If the person duly cited before a Kirk-Session, or otherwise appearing before a Kirk-Session, in connexion with an allegation or *fama* as to any inconsistency of the kind here spoken of, make confession of guilt, a judicial admonition or rebuke must be pronounced by the Moderator in name of the Kirk-Session, and in their presence, or publicly in presence of the Congregation, when the Session judge this to be for edification. If a promise be given, under an apparently adequate sense of sin, to amend, the procedure may cease without suspension from ordinances.

6. If no confession be made, but the party profess innocence, the nature of the charge must be distinctly defined, and a statement must be furnished to him containing the names of the witnesses and a list of the documents by which it is proposed to establish that charge. If he require it, due time ought to be allowed to him for preparing his defence, and for obtaining the evidence of such witnesses as he may wish to bring forward. He may object either to the relevancy of the charge, or to the force of the proof by which it is supported. Careful attention must be given by the Kirk-Session to his objections. The result may be to show either that the charge is irrelevant or that it is not proven. In either case no further procedure can be taken with reference to it. But if all objections be overruled, and the party be found guilty in the judgment of the Session, then, except where circumstances tend to aggravate the offence in the manner suggested by Section 4, it may be sufficient in the meantime that a rebuke be judicially pronounced by the Moderator in the name of the Kirk-Session, and in their presence. But the process is not at an end, if there be no promise of amendment, and no indication of repentance. Such promise or indication may enable the Session to terminate the matter, when the party has for the first time been accused before them.

7. If after a rebuke before the Session or the Congregation for the kind of offence referred to, no profession of repentance, and no promise of amendment be tendered within a reasonable time, the Session may be compelled to pronounce the sentence of lesser excommunication, or, in other words, to suspend the party, in a formal way, from the benefit of sealing ordinances.

8. If, after a rebuke before the Session or the Congregation for this kind of offence, and after a profession of repentance with promise of amendment, it shall appear that the profession is not borne out and the promise not kept, and that the party may be reasonably charged again with the same or with a similar offence, the Kirk-Session must proceed in regular form with a view to the lesser excommunication. If no confession be made the case must be proceeded

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PART II.

Single acts may require suspension, etc.

Judicial admonition or rebuke without suspension.

When no confession, charge to be defined, and list of witnesses, etc.

Question of relevancy, etc.

Lesser excommunication.

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## PART II.

Removal of  
suspension.

Principle of not  
raising scandal  
after five years.

Seventh Com-  
mandment.

Caution in  
admitting public  
processes.

Private rebuke,  
etc.

Some actions as  
censurable as  
direct acts of  
palpable sin.

Sentence of less  
or greater excom-  
munication in  
view.

with as pointed out in Section 6, until it be seen whether the new charge be found proven. If it be found proven, the sentence of lesser excommunication must follow. Even if confession be made and repentance appear, they ought not at this stage to prevent a temporary suspension of the party from the benefit of sealing ordinances.

9. Confession, and an apparently sincere profession of repentance, when duly weighed by the Session, and found to be satisfactory, so far as man's fallible judgment can reasonably go, form a sufficient ground for removing a sentence of suspension, and restoring the party to the full communion and fellowship of the Church.

10. The principle of the Form of Process referred to in Part I., Section 6, that a scandal which has not been noticed in order to censure for the space of five years, should not be revived so as to enter in a process thereanent, unless it be of an heinous nature or become again flagrant, has special application to the class of offences spoken of in the nine preceding sections of this Second Part. The application of it to offences of a more palpably grievous character, must be regulated by careful discrimination and Christian prudence on the part of Kirk-Sessions. Every endeavour should be prayerfully made to harmonize such tenderness and forbearance as are for the profit of guilty parties, with a faithful regard to the honour of Christ and the spiritual feelings of His devoted people.

11. There are offences which bring such deep and open reproach upon the Christian profession, that it is hardly possible to avoid dealing in regular form with one of them, when any circumstance brings it palpably into view, or when a report is spread abroad regarding it. These offences are to be found chiefly in breaches of the Seventh Commandment.

12. In cases of accusation with respect to these breaches, it falls frequently out, according to the language of the Form of Process, 'that when the matter is put to the strictest trial, all that can be proven is but presumptions of guilt or scandalous behaviour, and not the act of uncleanness, the same being a work of darkness; and therefore this should oblige the Kirk-Session to be very cautious how to admit the public entering a process without good warrant, where there is not a child in the case, unless the scandal be very flagrant.'

13. 'Many of these actions,' according to the same authority, 'which give occasion to the raising a scandal of uncleanness, are such as are not themselves alone publicly censurable, but to be passed by with a private rebuke or admonition.'

14. 'Some of these actions,' however, according to the same authority, 'may be so lascivious and obscene, and clothed with such circumstances as may be as offensive as the act of uncleanness itself, and as censurable.'

15. In the case of any charge or *fama*, which involves an allegation of any such action as those referred to in the preceding section, or of fornication or of adultery, the Kirk-Session cannot allow the process to be entered upon at all without keeping in view that if the

party be found guilty, the sentence of lesser excommunication or suspension from the use of sealing ordinances must follow.

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PART II.

16. It most frequently happens, under the existing circumstances of the Church and of society, that the first intimation of the scandal, which the Session receive, is in the form of a request by the guilty parties that they may be permitted to appear and confess their sin. In instances of this kind a sentence of suspension appears to be often assumed as existing, although it has not been formally pronounced. The parties have voluntarily submitted themselves already to all the effect of that sentence, and the question raised by them is one as to the taking of it away, or as to the absolving of them from the scandal, and the restoring of them to the fellowship of the Church.

Question commonly raised as to taking away scandal.

17. It seems quite consistent with the spirit of the Form of Process that the Kirk-Session should proceed upon the footing referred to in the preceding section, in cases of a less heinous character, and especially when the sin confessed is that of antenuptial fornication, a sin which, though involving a grievous departure from God's pure and holy law of marriage, may often not be known so as to cause any scandal till long after a marriage has been solemnized. But the Kirk-Session are called upon to look closely at the whole circumstances of each case thus brought before them, and to regulate the course of discipline by what they see to be required for the good of the parties, the honour of Christ, the purity of Christian fellowship, and the edification of the Church. The amount of private dealing, the number of appearances before the Kirk-Session, the mode of administering rebuke, either before the Session or before the Congregation, and the time suffered to elapse before a sentence of absolution is pronounced, may vary according to a Scriptural wisdom and discretion in estimating the effect of discipline in its application to particular matters. But in every case of fornication there must be open appearance before the Kirk-Session for the confession of sin, and there must be open rebuke administered to the parties by the Moderator in the name and in presence of the Kirk-Session.

Antenuptial fornication.

18. When a charge of fornication, brought regularly before a Kirk-Session, is denied by the accused party after due citation and due appearance before the Court, it is needful for the Session to proceed regularly toward an investigation of the grounds upon which the charge or the *fama* proceeds. They may do this in the first instance by the appointment of a Committee, with instructions to report. Or, if there be any party or parties taking the responsibility of maintaining the accusation, such party or parties may be called upon to bring forward their case that the Kirk-Session may judge of it.

Committee to investigate grounds, etc.

19. A distinct statement of the particular charge or charges, along with the names of the witnesses, and a list of documents, that are relied upon as supporting the accusation, ought to be put into the hands of the accused party, after which, if he or she desires it, time should be allowed for preparing his or her defence.

Distinct Statement, etc.

## CHAP. V.

## PART II.

Citation *apud acta*.

Objections to relevancy.

Formal rules as to Citation.

Taking of evidence.

Reasonable steps as to both parties in a case.

20. If parties have been already duly cited, and are present before the Court, a citation *apud acta* is sufficient for summoning them duly to another meeting of Kirk-Session to be held on a future day.

21. If objections be brought against the relevancy of a charge or charges, or against the competency of particular witnesses, or of particular questions put to them, the Kirk-Session are bound to weigh these objections impartially. They are bound to do this with all the greater scrupulosity when there are no accusers, and when they are prosecuting the matter simply from their own sense of duty.

22. In practice, the rigidly formal rules as to the citations of parties and witnesses are often greatly modified. A verbal intimation is found in most cases to answer every purpose. Only it ought always to be remembered that no one can be subjected to censure for non-attendance except in disobedience to a regular citation.

23. A similar modification occurs in the taking of the evidence, when the parties are truly desirous of enabling the Kirk-Session to expiscate the truth. Such evidence may be gathered by what may be considered precognition, rather than judicial trial, as may suffice either to establish or rebut a charge, and thereby to effect the acquiescence of all parties in a Sessional deliverance thereanent. The object of a Kirk-Session should always be to bring out the truth, so as to adjust a matter at once in a Scriptural and in a peaceful manner. But if friendly dealing with the heart and conscience fail in settling the question raised, through acknowledgment, either by the accusers or by the accused, of sin or error; and if a party stand upon his or her rights, then the cause of justice requires that the most exact forms of procedure be adopted. It is dangerous to neglect these in any case of difficulty. For no member of the Church can be deprived of his privileges as such, except by the establishment of his guilt with reference to a relevant charge, proved by competent evidence, before a competent Court, and by means of a regular and fairly conducted trial.

24. A charge of fornication involves more than one party, and it is not considered competent to deal with it as regards one party alone, until at least all reasonable steps have been taken to bring the case of the other party under view at the same time. If both parties be members of one congregation, there is no difficulty in dealing immediately with them both. But if they belong to different congregations of the Free Church, the general rule is that the Kirk-Session which has jurisdiction over the woman takes up the case. The ground of this rule, however, being simply the circumstance that, in most instances, the scandal has greatest notoriety where the woman resides, there may evidently be exceptions to its application. If a question arise between two Kirk-Sessions as to which of them shall charge itself with the responsibility of investigating a *fama*, or entertaining a charge against a member or against

two members of the Free Church, any such question ought to be referred by each of the Kirk-Sessions to its Presbytery. If they both belong to the same Presbytery, the judgment of that Presbytery will settle the question, unless it be thought advisable by one or more of the parties, or by any member or members of Presbytery, to carry the matter to the Synod by appeal or complaint. If the two Sessions belong to different Presbyteries, then each of those Presbyteries ought to bring the matter before its Provincial Synod, whose decision may be conclusive, if both presbyteries are under the jurisdiction of the same Synod, and if the Kirk-Sessions and Presbyteries all acquiesce in that decision. If the Presbyteries belong to different Synods, each of the Synods ought to refer the matter to the General Assembly, whose determination will be absolutely final. It is extremely desirable, however, that any such question should be harmoniously settled by an agreement between the two Kirk-Sessions. For the delay occasioned, either by references or by appeals or complaints, may be most injurious to the effectiveness of discipline, and to the spiritual health of congregations. Instead of referring the question to its Presbytery, a Kirk-Session may, after communicating a scandal to another Kirk-Session, and finding that this Kirk-Session will not enter upon the investigation, petition the Presbytery to whose jurisdiction the other Session is subject, calling upon that Presbytery to enforce upon it the duty of taking up the case. It is much better when, by friendly correspondence, all occasion for this kind of action is prevented.

25. As both parties must be cited in the case of a charge of fornication, even when they are members of different congregations, it is necessary that intimation of the charge be made by the Session which takes up the case to the Session which does not take it up, in order that the latter Session may cite the party who is under its jurisdiction to appear thereanent before the former Session. The same course must be taken with respect to witnesses who, being members of the Free Church of Scotland, are not members of the same congregation with that to which the party principally accused belongs.

Intimation by one Session to another.

26. When, from any cause, the personal attendance of a witness cannot be obtained, a certificate or affidavit from him may suffice, or two or more of the Session may be appointed to take his evidence.

Witnesses who cannot attend.

27. If two parties appear together confessing themselves guilty of antenuptial fornication, although no child has yet been born, the confession may be accepted of, and the case proceeded with, until they are absolved from scandal. For such timely appearance and confession generally indicate a better understanding of the position in which their sin has placed them, than when an acknowledgment follows the birth of a child. But if only one party make confession before the birth, it has been found more expedient to sist procedure till after the birth. If, where one party only confesses, no child is

Acceptance of timely confession by two persons.



## CHAP. V.

## PART II.

- born at all, the Session is required to exercise much caution before proceeding against any other party named, whose guilt it may be impossible to establish.
- Naming of father.** 28. A woman confessing guilt with reference to the birth of her child is called upon to name the father. If she refuses to do so, she is dealt with as *contumacious*. If she declares that she does not know who the father is, procedure is delayed until advice be received from the Presbytery. (See Section 40 (6).)
- Contumaciousness.**
- Denial of accusation.** 29. If a man, accused by a woman, appear and deny the accusation, the woman is required to adduce evidence in support of her averment. Every fair effort should be made to ascertain the truth. If the woman has had more than one illegitimate child previously, and if the man has hitherto borne a fair character, she must furnish some *prima facie* good evidence before the Kirk-Session can be justified in even citing the accused party.
- Means for ascertainment to be exhausted.** 30. If the man named by a woman confessing guilt do not belong to the Free Church of Scotland, all reasonable endeavours should be made by the Kirk-Session to induce him to declare, either in writing or verbally in presence of the Session, or some of its Members, that he is the father of the child. For the Kirk-Session are not justified in acting upon a woman's confession, so as to absolve her from scandal, until they have exhausted the means within their reach for ascertaining the paternity.
- Acknowledgment of guilt sufficient.** 31. Sometimes the paternity is denied, while guilt otherwise is acknowledged. Such acknowledgment is held sufficient, unless proof can be adduced that the woman had connexion with another person, or unless her character be notoriously bad.
- Oath of Purgation.** 32. A rare case may occur, in which a man accused apparently without good reason, desires to take what is called the *oath of purgation*. This is not allowed, however, except on very special grounds, and never without authority from the Presbytery. (See Appendix No. X., Form of Process, Chapter IV. 7, 8, 9.)
- Recording of documents and evidence.** 33. When evidence is brought forward and witnesses are examined in a regular trial before the Session, all documents produced and admitted must be recorded, and the statements of witnesses in answer to relevant questions must also be recorded. It may often be expedient for the Kirk-Session to open a separate record for the insertion of their procedure with reference to a particular case of discipline, and, by referring in their Ordinary Minute to this separate Record, they may sufficiently authenticate it. But it partakes of the same nature with their Ordinary Minutes, and must be kept with equal care, and according to the same rules.
- Objections to admissibility, etc.** 34. Objections may be taken to the admissibility and credibility of witnesses, which objections the Session may either sustain or overrule. The accused party may cross-examine the witnesses against him, provided the questions put by him are approved of by the Session as relevant.
35. It was formerly thought necessary that the evidence before a Session should always be given on oath. A solemn declaration



is now very generally substituted, to the effect that the witness will speak the truth, accompanied by an assurance that he bears no malice to the party or parties, and is not influenced by partial counsel. Evidence taken in connexion with such a declaration ought not to be identified with statements obtained by a mere pre-cognition. But when received at all, it must be held to occupy precisely the same place with evidence taken on oath.

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PART II.

Solemn declaration equivalent to oath.

36. When all the evidence offered on either side has been taken and recorded, parties are removed. The Kirk-Session then deliberates in private and comes to a decision. Parties are then called in, and judgment is pronounced by the Moderator.

Decision.

37. The effect of a Kirk-Session's judgment upon an Ordinary Member may be the infliction of one or more of four censures. It may be—(1.) Admonition, involving affectionate warning of sin and danger, and exhortation to greater circumspection; or (2.) Rebuke after confession or conviction of a scandalous offence, either before the Session alone or before the Congregation; or (3.) Suspension from privileges for a longer or shorter period, or *sine die*, as the result of a confession or conviction, which seems to be identified in the Form of Process with what is called the Lesser Excommunication (see Section 38); or (4.) What in common practice is now the striking off the offender's name from the Communion Roll, and declaring him or her to be no longer a Member of the Church, but what, in the most solemn manner of its infliction, is termed the Greater Excommunication, as described in the Form of Process (Chapter VIII. with reference to 1 Cor. v. 4, 5, and 1 Tim. i. 20). The latter form of Excommunication is rarely now resorted to, and cannot be adopted without the express authority of the Presbytery. In fact, the removal of a name from the Roll, and a declaration that the party is no longer a member, are, when adopted as the result of discipline, a milder form of the Greater Excommunication, adapted to the existing circumstances of the Church.

Effect of Decision.

38. Suspension from privileges as a censure arising at the close of a judicial investigation ought to be carefully distinguished from the suspension which takes place while a party is only under a charge of sin, which has not yet been proved. The latter suspension is not of the nature of a censure at all. It is simply a step which cannot be avoided in the circumstances, and to which the party must submit, because it would not be for edification that he or she should partake of privileges while subject to a charge of scandal.

Such suspension distinct from suspension under charge.

39. The Kirk-Session absolves from scandal and restores to privileges, when it sees sufficient ground for doing so, after hopeful evidence of penitence has been exhibited. The effect is simply to remove the sentence of Suspension, or the sentence of Greater Excommunication. The Church does not pretend to absolve from sin in the sight of God. But assuming the genuineness of outward professions and appearances, she proceeds on the supposition that

Absolution and Restoration.

## CHAP. V.

## PART II.

Cases to be  
referred to  
Presbytery.

the offender has already sought and obtained forgiveness through the atoning blood of Christ. On this footing the Moderator pronounces sentence of absolution in the name of the Lord Jesus.

40. There are cases and occasions which require a Kirk-Session to refer a matter to the Presbytery before proceeding further in it :—

(1.) A charge of incest must be referred to the Presbytery for advice.

(2.) So also must a charge of adultery.

(3.) So also a charge of having fallen into the sin of fornication for the third time.

(4.) So also a charge of flagrant heresy or schism.

(5.) So also a charge of continued *contumacy*, which embraces a resolute refusal to submit to discipline, and a declinature, without good ground, to appear when cited by the Session, either *apud acta* or through three distinct citations by the church officer.

The reference of such cases, of course, brings up all parties to the bar of the Presbytery, and, strictly speaking, all parties being summoned *apud acta*, are bound to appear at the meeting of Presbytery. But as the Presbytery most frequently remits the matter back to the Session with or without instructions, it can hardly be said that, in practice, the parties are expected to appear at the Presbytery unless the Presbytery shall require them to be specially cited after the reference has been stated.

(6.) When a woman declares that she does not know who is the father of her child, the matter must be referred to the Presbytery for advice.

(7.) If a man expresses a desire to take the oath of purgation, this desire cannot be acceded to without a special reference to the Presbytery thereanent.

Greater excom-  
munication.

(8.) The more solemn form of the Greater Excommunication cannot be adopted without the authority of the Presbytery.

41. After receiving instructions from the Presbytery in any one of the matters which must be referred to them for advice, the Kirk-Session must adopt the same procedure and follow the same rules in carrying out those instructions which have already been detailed with reference to an ordinary charge of fornication.

Baptism of child  
of person under  
discipline.

42. The child of a person under discipline or censure cannot be baptized unless *bonâ fide* adopted by another member of the Church.

Fugitives from  
discipline.

43. A member of a congregation who absconds during a process against him, or who leaves the congregation on being dealt with or suspended, is called a fugitive from discipline. A particular course of action with a view to the excommunication of such an one is set forth in the Form of Process. In existing circumstances it is deemed sufficient that the Kirk-Session formally erase the name of the party from the Communion Roll.

Sisting of  
procedure.

44. When any party is refractory or exhibits an improper spirit, the Session may competently sist procedure until he be brought to a better mind.

Law Agents, etc.

45. No law agent or legal adviser is allowed admission as such

to a meeting of Kirk-Session. In particular cases a person might, *e.g.*, be permitted to sit beside an accused party as a friend, but not to take any open part in the procedure; unless authorized by the Session to act for the accused on very special grounds.

46. If a charge be brought, or if a *fama* arise against an Elder or a Deacon, the Kirk-Session are called upon to proceed always by means of a preliminary inquiry or precognition. The accused party ought to be made aware of this precognition, so as to have an opportunity of offering explanation. If the accusation or report appear frivolous, or not likely to be proved, it should be allowed to drop. But if the contrary appear, the accused should be faithfully and affectionately dealt with, in order that he may be induced to make a candid statement of the whole truth. If he deny the charge, or say that there is no foundation for the *fama*, the rules of procedure are the same with those followed in the case of an ordinary member, until a judgment upon the effect of the evidence has been arrived at, except that, besides being in the meantime suspended from privileges, he is also *ipso facto* suspended from office. If the result of the investigation be that the party is suspended from privileges in the way of censure, or that he is excommunicated, he is *ipso facto* suspended or deposed from office. But the offence may appear such in the view of the Session as to necessitate his suspension or his deposition from office, even when they see no cause for depriving him of privileges, either for a longer or a shorter period.

47. A sentence of suspension or deposition pronounced upon an Elder or Deacon may either be read from the pulpit to the congregation, or intimated otherwise by the Moderator as may seem most for edification.

48. A deposed Elder or Deacon may be reponed to his office upon good cause shown, in so far as rigid law is concerned. But the cases are very rare indeed in which such reponement is thought to be for edification.

49. Further particulars with respect to the duties of a Kirk-Session in the administration of Discipline will be found in the Form of Process, which is recommended to the careful study of Ministers and Elders.

### PART III.—Processes peculiar to the Presbytery.

#### DIVISION I.—Processes in connexion with the action of Kirk-Sessions.

1. The rights of appeal and complaint from a Kirk-Session to its Presbytery are specially applicable to matters of discipline, according to the rules pointed out in Chapter I. Part II. Sections 18 and 19, which must be carefully observed. It is an important function of the Presbytery to consider carefully appeals and complaints affecting discipline, and to dispose of them in accordance with the Word of God and the laws of the Church.

2. When an Appeal or Complaint of this kind is brought before the Presbytery, and it appears that the matter is one which must

CHAP. V.

PART II.

Charge or *fama*  
against Ruling  
Elder or Deacon.

Intimation of  
sentence as to  
Elder or Deacon.

Reponement.

Form of Process.

Consideration of  
Appeals.

## CHAP. V.

## PART III.

## DIV. I.

Appeals in  
matters that  
must come up

Carefulness as to  
other Appeals.

Both justice to  
parties and  
authority of  
Session to be  
maintained.

Sisting of  
execution by  
Appeal or  
Complaint.

Procedure in  
needful Appeals.

come before them at any rate, according to Part II. Section 40, it is not held necessary for them to scrutinize very rigidly the circumstances in which the Appeal or Complaint has been taken, or the reasonableness of it, at that particular stage. It is considered warrantable for them, in order to prevent undue delay, to entertain the matter at once upon the merits, although they may, if they see cause, censure the Appellants or Complainers. (See Form of Process, Chapter V. 2, 4, p. 248.)

3. If the subject of discipline about which there is an Appeal or Complaint be one of which the Kirk-Session are throughout the competent and proper judges, the Presbytery are called upon to be very careful in the entertainment of the Appeal or Complaint, lest the orderly course of Sessional Discipline be frequently interrupted in an untimely and needless manner, or on frivolous grounds. On the other hand, if the Presbytery find that the Kirk-Session have done injustice to an accused party who has appealed, it is their duty not only to free that party, in a formal way, from scandal, and declare his or her innocence, but to take such methods within their jurisdiction as they may judge proper and effectual for vindicating his or her character, and wiping off the effects of the scandal.

4. 'Herein the Presbytery is to exercise great prudence, doing justice to the innocent, yet so as not to weaken the Kirk-Sessions' authority in that congregation, if in justice it can be avoided.'

5. It is competent for a Presbytery, when they perceive errors of judgment on the part of a Kirk-Session in dealing with a case of Discipline which has been brought up by Appeal, Complaint, or Reference, either openly to give suitable instructions to the Minister and elders, or to admonish them privately.

6. An appeal or Complaint sists the execution of any sentence of Discipline pronounced by a Kirk-Session, as long as the Appeal or Complaint is duly prosecuted, and until it be disposed of finally, either by the Presbytery, or by the Synod, or by the General Assembly.

7. In dealing with a reference to them of any one of the matters referred to in Part II. Section 40, the Presbytery is, strictly speaking, entitled to assume that all the parties, having been cited by the Kirk-Session *apud acta*, are bound to be present, so that the case may be proceeded with to any extent by the Presbytery itself, if they see cause. But a very frequently adopted course, even when the reference is sustained as made in due form, is to remit the matter back to the Kirk-Session, with instructions or advice. It has thus become reasonable that, if the Presbytery see cause for themselves dealing at all with the parties personally, they should issue, or cause to be issued by the Session, a fresh and special citation to the parties, so as to make them aware that their presence before the Presbytery is really required. The Presbytery have undoubtedly the discretionary power of either carrying out the case themselves to its termination, or of at once remitting it back to the Kirk-Session, with authority to proceed, or of requiring parties to

appear for Presbyterial rebuke or admonition, and then remitting further procedure to the Kirk-Session. It is often thought best to leave the responsibility as much as possible with the Session.

8. The authority of the Presbytery is requisite for the removal by absolution of any of those sentences which cannot be pronounced by the Kirk-Session, without having obtained the authority of the Presbytery at some stage of the process.

CHAP. V.

PART III.

DIV. I.

Authority as to removal of Censures.

*DIVISION II.—Processes originating in the Presbytery.*

1. It is a special function of the Presbytery to investigate any charge or *fama* against a Minister or Probationer within their bounds. They alone have primary jurisdiction over either.

Charge or *fama* against a Minister.

2. A Presbytery is called upon to prefer, in all cases, the honour of Christ and the purity of His Church to the temporary feelings and interests of men. Therefore, the allegation of serious offences against the light of God's Word, or against holiness of life, on the part of a Minister of the Gospel, and especially on the part of a Pastor, must not be lightly dealt with by his Presbytery.

3. The very gravity of this duty renders it all the more necessary for a Presbytery to exercise great caution and prudence, before themselves originating, or encouraging others to originate, a regular process against a Minister.

Caution and Prudence.

4. If allegations to the discredit of a Minister do not involve any imputation of immoral conduct, but of unsoundness in doctrine, or of views and practices opposed to the order, unity, and peace established by Christ in His Church, they ought not to be rashly entertained. The knowledge and understanding of those who make the allegations should be closely considered, before the adoption of any action regarding them. If alleged errors be not gross, and strike not at the vitals of religion; or if they be not pertinaciously clung to or industriously spread, with a visible design to corrupt; or if they be not spreading among the people, then, according to the old Form of Process, lenitives, admonitions, instructions, and frequent conferences are to be tried to reclaim without cutting off; the advice, if need be, of other Presbyteries should be sought; and unless the matter be doing much hurt, so as to admit of no delay, the Synod or General Assembly may be advised with in the affair, provided the Minister concerned be made aware of the steps that are taken. (See Form of Process, Chap. VII. 8, p. 251.)

Allegations not to be rashly entertained.

5. According to the same authority, if the complaint against a Minister involve a multitude of smaller things laid together, as several acts of negligence, or other unsuitable actions, the Presbytery ought to make a Presbyterial visitation of the Congregation with which the Minister is connected. In conducting a visitation in such circumstances, they are called upon to investigate carefully the character and origin of the allegations, whether they were ever raised previously; how, if they never were, they came to be passed over; and what has occasioned their being brought forward

Case for Presbyterial Visitation.

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now. If the Presbytery, at their visitation, find satisfying reasons for the matter having been broached at the particular time, they were next required to ascertain what diligence has been used in acquainting the minister with the offence given by his procedure, and how far the offence has been continued after he was made aware of the effect produced. The inquiry is also recommended, whether any of the complainers did first, in a prudent, private way, inform any of the neighbouring Ministers of their complaints, before these had swelled out into a magnitude demanding Presbyterian interference.

Case for simple  
rebuke of parties.

6. If, by Presbyterian visitation or otherwise, the Presbytery find, in the way of preliminary investigation or precognition, that the complaints resolve into the Minister having committed such acts of infirmity or passion, as, considering all the circumstances, may be either amended, so as to satisfy the people, and to prevent any continued hindrance to the profitableness of the ministry of the Word among them, then the course suggested by the Form of Process is to take all prudent steps for satisfying both parties, for rebuking their respective errors, and doing away with the offence.

All means for  
preventing  
process to be  
exhausted.

7. It thus appears that the Free Church, by retaining the old Form of Process as part of her law, would restrain a Presbytery from instituting or entertaining a regular process against any Minister, until all means have been exhausted for preventing the necessity of such a process being entered on.

Right to a Libel.

8. At the same time it ought to be recollected, that if a Minister think himself aggrieved by the raising of any question regarding his conduct, or if he object to any investigation without a regular trial being granted to him, he is entitled to demand that a Libel or regularly arranged statement of any charge or charges against him be drawn out and placed in his hands, before he will consent to hold communication with his co-Presbyters on the subject of the allegations. Circumstances might occur which would justify him in taking this ground, although it is generally more consistent with the spirit of the Gospel that he should, at the very first, speak frankly and distinctly to those who propose to deal with him. (See Form of Process, Chap. VII. 9-12, p. 251.)

9. It may thus be necessary sometimes to proceed by Libel even with respect to charges which, if well founded, do not of necessity involve the infliction of any high censure.

Description of  
Libel.

10. It has been established by long practice that no judicial process of a serious kind can be carried out against a minister or a Probationer, except by the use of what is called a Libel. This is a document consisting of three parts, and forming a regular syllogism. The first, or major proposition, sets forth the nature of the alleged offence, declares its contrariety to the Word of God and the laws of the Church, and indicates the kind of consequences which ought to follow from it. The second, or minor proposition, asserts the guilt of the Minister or Probationer, and specifies what are believed to



be the leading facts involving guilt, and particularizing time, place, and other circumstances. This proposition may contain one or more counts of indictment. The third part connects the major and minor propositions together, and thereby deduces the conclusion that the Minister or Probationer, as guilty of the offence mentioned in the major proposition, ought to be subjected to the consequences, provided the minor proposition be made good, either by confession or by adequate evidence. It is of great importance that care be taken to frame the Libel with accuracy, so as to avoid grounds for questioning its relevancy. Rules for framing Libels, as well as Forms of Libel, may be found in 'Styles of Procedure,' by the Church Law Society, 1838, pp. 98-106, and in Appendix No. XI. 3, of this Manual. It is advisable, in every case, that the Libel, however carefully framed by the help of these Rules and Forms, should, previously to its adoption, be revised by some one experienced both in ecclesiastical processes and in the nature of indictments generally, such as the Legal Adviser of the Church.<sup>1</sup> A Libel must be signed by the party or parties prosecuting, and a list of witnesses and documents adduced in support of the charge embodied in it must be appended to it.

11. There are three distinct grounds which may warrant or require a Presbytery to entertain or frame a Libel, and without one of which it is contrary to the Form of Process for a Presbytery to entertain a charge of scandal against a Minister, so far even as to cite the Minister, or in any way begin a process. One ground is that of some person giving in a complaint involving a charge of immorality or heresy under his own hand, *with some account of its probability*, and undertaking to make out a Libel. A second ground is that of a person simply undertaking to make out a Libel containing such a charge, under the pain of being censured as a slanderer if he fail to do so. And a third ground is that of a *fama clamosa* being so great, as that the Presbytery, for their own vindication, find it necessary to begin a process without any particular accuser.

(1.) Since a scandal against a Minister, once raised, cannot be easily wiped off, a Presbytery must exactly ponder by whose information and complaint it comes before them. And in judging of the *probability* that would justify them in proceeding, they are called upon to weigh well the measure of credit due to the quarter from which an allegation of scandal proceeds.

(2.) If the raiser of a Complaint, being a Member of the Church, press it upon them, representing that attention to it is requisite for the due exercise of discipline, while he fails to satisfy them of its truth being reasonably probable, they must require him to declare that he undertakes to make it out, under the pain of being himself censured as a slanderer. If he allow this declaration to be minuted, and put his hand to it, they are called upon to proceed.

(3.) Before beginning a process against a Minister or a Probationer, on the ground of a *fama clamosa*, involving serious scandal, or manifest heresy, such as persistent opposition to the doctrine of

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Grounds for  
entertaining a  
Libel.

Credit due to  
accusers to be  
weighed.

Raiser of Com-  
plaint obliged to  
make it out.

Inquiry as to  
rise, etc., of *fama*.

<sup>1</sup> By Act XIV. 1860, the revival of a Libel by the Legal Adviser is absolutely required, previously to its being found relevant or served

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## PART III.

## Div. II.

Process against  
Professors  
prosecuted by  
College  
Committee.

Preliminary  
examination of  
witnesses.

Dealing with a  
view to con-  
fession.

Order of Pro-  
cedure after  
Libel framed  
by Presbytery.

Libel framed by  
other parties.

the Confession of Faith, the Presbytery must be careful to inquire into the rise, occasion, broachers, and grounds of such a *fama*. (See Form of Process, Chap. VII. 3, p. 274.)

12. It is the special function of the General Assembly's College Committee to originate and prosecute before the Church Courts any process required against a Professor in a Theological Hall for heresy or immorality, the rights competent to all parties according to the laws of the Church being at the same time reserved. (See Act IX., Assembly 1861.)<sup>1</sup>

13. In all cases which may lead to a Libel, a careful preliminary examination of proposed witnesses is requisite by the party prosecuting, in order that a charge incapable of proof may not be proceeded with.

14. If a Presbytery find that there is good ground for entertaining or framing a Libel against a Minister or Probationer, subject to their jurisdiction, they ought, in the first instance, to deal with him, so as to ascertain whether further steps in the process may not be superseded by his confession. They ought to do what they can, in the spirit of love and faithfulness, to bring him to a confession. He may either deny the charge, or, before committing himself at all by answering the inquiries of his brethren, he may think it necessary that the imputations against him be set forth distinctly in regular form. In either case, the framing of a Libel becomes necessary.

15. When the Presbytery find it necessary to be themselves the Libellers in a case of charge against a Minister, they are called upon to consider the question as to the relevancy of the Libel before serving it. With this view, they are instructed to summon him, in regular form, with ten days' free notice, to attend a meeting of Presbytery, at which it shall be proposed to consider the propriety of serving the Libel. A copy of the proposed Libel must accompany the summons. They are called upon, at that meeting, to consider carefully the relevancy of the Libel, and if they resolve to serve it, they must serve it as a Libel which they have already judged to be relevant. It is held that the Minister, if Minister of a sanctioned charge within the bounds, though specially summoned to attend on the occasion, is not yet a party at the bar, but is still a member of Court while the question of relevancy is discussed, and until the resolution to serve the Libel has been come to. (See Act V., Assembly 1853.)<sup>2</sup> If the Minister object to that resolution, his remedy is not by Appeal, but by Dissent and Complaint.

16. The rule laid down in the preceding Section does not apply to the case of a Probationer, against whom a Libel must be served before its relevancy is judicially considered, even when the Presbytery are the Libellers.

17. When a Libel against a Minister is prepared and prosecuted by any other party than the Presbytery, it must be presented to the Presbytery, and can only be served by their authority. In this case, its relevancy cannot be judicially considered, until it has been served.

<sup>1</sup> App. IV

<sup>2</sup> App. X.

18. No Appeal or Dissent and Complaint at any stage of Presbyterial action in a case of *charge* or *fama* which involves a Libel, or may lead to the necessity of serving a Libel against a Minister, has the effect of sisting procedure, until the Libel has both been served and found relevant. (See Act IV., Assembly 1853.)<sup>1</sup>

19. In every case in which a Presbytery has resolved to order a Libel to be served upon a Minister of the Church, he ceases *ipso facto* to exercise the functions of his office, both ministerial and judicial, until the Libel has been finally disposed of.

20. The relevancy of a Libel includes two things—(1.) Whether the major proposition be true or not; that is, whether the offence or offences referred to be truly or not a subject of Church censure, inferring the indicated penalty, according to the Word of God and the standards of the Church; and (2.) Whether the conclusion be fairly deducible or not from the premisses; that is, whether the facts specified in the minor proposition really amount or not to the offence or offences charged in the major proposition.

21. If the Libel be found irrelevant, except in the case in which, after appeal, complaint, or reference, the General Assembly has corrected the irrelevancy, the whole proceedings fall to the ground. If only part of it be found irrelevant, the case may go on upon the part which has been found relevant.

22. After a Libel against a Minister has been found relevant, the Presbytery ought to deal with him anew as to whether he be or be not prepared to confess the truth of the charge or charges. For every reasonable consideration ought to be urged in order to persuade a Christian Minister that, if an accusation against him be well founded, it is his duty, both for his own sake and for the interests of Christ's cause, to save his brethren or other parties the trouble of adducing proof against him, either by witnesses or by documents. When the Presbytery are themselves the Libellers, this dealing may take place immediately after the Libel has been found relevant, and before it has been actually served. In any other case, it must, of course, be resorted to after the serving of the Libel, and also after it has been found relevant. It may be carried on either at a private meeting of the Presbytery, or by a Committee of their number appointed for the purpose.

23. If the accused Minister or Probationer persist in his denial of the charge or charges, after the Libel has been found relevant, the Presbytery, if prepared to carry on the case without reference to the Superior Courts, must proceed to take the proof, after hearing the Libel read over again, and after hearing also any answers that may have been given in on the part of the Minister or Probationer. The same rules for the conduct of the trial apply, which have been stated with reference to the action of Kirk-Sessions in cases of discipline. The whole procedure must be carefully minuted. It is expedient that it should be kept in a separate Record, lest from any cause a Superior Court should order the whole or any part of it to be deleted or destroyed. But it must be considered in the mean-

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No appeal, etc., to sist procedur till Libel served and found relevant.

Functions of Minister cease *ipso facto*.

Things included in relevancy of Libel.

Effect of irrelevancy.

Fresh dealing toward confession.

Presbytery's procedure as to proof.

<sup>1</sup> App. X.

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Competency of  
reference to  
Superior Courts.

time as an integral part of the Presbytery's Minutes. The questions as to the competency of evidence, and other important points which may be raised in a case of Libel against a Minister, are often of such grave consequence that a more particular statement with respect to some of them is given in the Appendix. (See Appendix No. X.)

24. When the Presbytery are prosecutors, and have adequate evidence before them that a Libel adopted by them as relevant has been served upon a Minister within their bounds, it is competent for them, if they see cause, to refer the case to the Superior Courts—that is, to the Synod, if it meet before the Assembly, and, otherwise, to the Assembly—either on the ground that it does not appear expedient, in the circumstances, for the Presbytery to act both as prosecutors and judges, or on the ground that it does not appear expedient in the circumstances for the proof to be taken, except in the presence of those who have the power of giving a final deliverance as to its effect. (See Acts IX. and X. Assembly 1854, and Report of Committee, 1855, Appendix No. X.)

25. When the Libel is prosecuted not by the Presbytery, but by another party, and when, having had adequate evidence before them that the Libel has been duly served, the Presbytery have found it relevant, it is competent for them, if they see cause, to refer the case to the Synod or Assembly, on the ground that it does not appear expedient, in the circumstances, for the proof to be taken, except in the presence of those who have the power of giving a final deliverance as to its effect.

Deposition or  
Suspension after  
confession.

26. If a Minister or Probationer confess himself guilty of any scandalous offence, such as flagrant or habitual intemperance, or of violating the Seventh Commandment, it is the duty of the Presbytery to *depose a Minister instant* from his office, or to deprive a Probationer *instant* of his license, and to deal with him otherwise as the ordinary discipline of the Church requires, and as may be most for edification. A public confession in presence of the Congregation was originally required, though in many localities such a requirement may not be thought suitable in the existing circumstances of the Church and of society. Where an offence by a Minister has not been very flagrant or aggravated, *suspension* from office *sine die*—that is, indefinitely as to time—has sometimes been considered sufficient censure. But such a *suspension* is always accompanied by a sentence which looses the suspended Minister from his Pastoral Charge: so that, even if he be reposed to the status of a Minister, he is not restored to that Charge.

Execution of  
Sentences.

27. In inflicting censures upon Ministers and Probationers, a Presbytery may either be called upon to execute its own judgments, when there is no appeal or complaint against them, or when they are confirmed by the Synod or Assembly, or be instructed to execute the judgments of the Synod or Assembly.

Minister not  
appearing.

28. If an accused Minister, when duly cited, do not appear, and either leave the locality, or show himself otherwise contumacious,

without any relevant excuse, the Presbytery are required to hold him as having confessed, and to depose and censure him *instantly* with the lesser excommunication. If, after some time, he do not return and subject himself to discipline, he may be proceeded against, so as to be censured with the greater excommunication, if the Presbytery see cause.

29. The full citation of a Minister who does not obey an ordinary citation is a public citation from the pulpit of his Church.

30. A tendered resignation of his office by a Minister cannot stop procedure by libel against him. For no resignation can be accepted of, unless the Presbytery be satisfied that no charge of scandal or heresy can be reasonably brought against him.

31. It is competent for a Minister to be reponed to his status, and for a Probationer to have his license restored, upon professions of repentance which seem to be borne out by a course of consistent conduct. But great caution is requisite in entertaining the question of such reponement or restoration. A Minister may be reponed, or a Probationer's license may be restored, either by the Presbytery which pronounced the sentence of deposition or deprivation, or by the Presbytery having jurisdiction over him at the time when application is made for reponement or restoration.

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Resignation does not stop Libel.

Reponing of a Minister, etc.

#### PART IV.—*Processes peculiar to the Provincial Synod.*

1. The chief action of the Provincial Synod with relation to Discipline lies in the exercise of its powers as a Court of Review. The most serious questions as to the relevancy of Libels, as to the competency and effect of evidence in cases of Libel, and as to the Procedure of Presbyteries in judging of matters before Kirk-Sessions, may come up to the Synod by Appeal, Complaint, or Reference.

Chief action in Review.

2. In dealing with Questions of Evidence thus introduced to their notice, the position of Synods is different, in one important particular, from that of Kirk-Sessions in their ordinary investigations, and from that of Presbyteries in their trial of the truth of Libels. The Synod cannot have the Witnesses personally before it, so as to judge of their statements by seeing and hearing them while they deliver their testimony orally. It must form the best judgment it can from the recorded evidence transmitted to it by the Clerks of Presbyteries, and from the pleadings of parties at its bar. When the papers in a case are very voluminous, it is sometimes found necessary that they should be all printed, to enable the Synod to judge of the case. This necessity may cause an Adjournment of the Synod for a week or two.

The Synod judges by recorded evidence

3. If the examination of a Presbytery's Record by a Synod exhibit what it regards as an irregularity or neglect on the subject of discipline, it is the function of the Synod to correct such irregularity or neglect. It may do this according to the nature of each par-

Correction of irregularity in Record.



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## PART IV.

Scandal or *fama clamosa* forced on attention.

ticular case, either by simply reversing a judgment, or by reversing a judgment and instructing the Presbytery how to proceed, or by calling the Presbytery's attention to a matter as requiring investigation, or as requiring more investigation than they have given to it.

4. If any circumstances of a peculiar kind have the effect of forcing upon the attention of a Synod a case of *scandal* or *fama clamosa* before it has reached the Inferior Court having primary jurisdiction over the party, it is not the duty of the Synod to take any steps toward itself originating a process. But, in such a case, the obligation lies upon it to direct the notice of the Presbytery of the bounds within which the scandal is alleged to have occurred, or the *fama clamosa* appears to prevail, to the statement or the facts which have been communicated to itself.

Case of Special Reference.

5. In the event of a reference coming to a Synod in terms of Act IX. or Act X. Assembly 1854, it is held that the Synod may take one of three courses. It may either differ from the Presbytery as to the question of expediency, dismiss the reference, and require the Presbytery to try the case themselves; or, secondly, it may sustain the reference, and resolve itself to try the case; or, thirdly, it may sustain the reference, and refer the case on to the General Assembly. (See Report of Committee attached to Acts 1855, II. 4, p. 191, in Appendix No. X.)

PART V.—Processes peculiar to the General Assembly and its Commissions.

Chief action in Review.

1. The chief action of the General Assembly with relation to Discipline, is, like that of the Synod, in the review of cases which come from the Inferior Courts by Appeal, Complaint, or Reference.

Power of correcting Libel.

2. If a competent Appeal, or Complaint, or Reference, bring up to the Assembly a question as to the relevancy of a Libel against a Minister, and if the Assembly find the Libel irrelevant, in whole or in part, it is competent for them, if they see fit, to correct the Libel, and to appoint the case to be tried with the amended Libel. (See Act VIII. Assembly 1854.)<sup>1</sup>

Assembly dependent on Recorded Evidence.

3. When a case of Libel, which has been found relevant, comes up to the Assembly after judgment upon the merits by the Presbytery, or by a Synod, or by both, the Assembly are placed in the same position with the Synod as regards the means of estimating the evidence. They are dependent entirely upon the record of that evidence transmitted by the Clerks of Synods and Presbyteries. And, according to the Standing Orders, that record, as well as all minutes and papers that affect a case, must be printed, with sufficient number of copies for the use of the Members of Assembly. (See Standing Orders, Appendix No. III. 5.)

4. In so far as the rules for dealing with a case of Libel in these circumstances are peculiar to the Assembly, they may be best seen by a study of the Standing Orders.

<sup>1</sup> App. X.



5. It has long been held competent for the Assembly to remit any cause which they cannot themselves overtake in a suitable manner, to their ordinary Commission, at one of its stated diets. The practice in this direction had been very frequent in cases of discipline previously to the year 1843. It has not prevailed since that era in the Free Church of Scotland; but nothing has occurred to bring its competency into question. The Commission, however, cannot take up any such cause which has not been specially remitted to it by the Assembly. When it has such a cause before it, the rules followed by the Assembly in obedience to the Standing Orders ought to be carefully observed.

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PART V.  
Remission of causes to Commission.

6. In the event of any such reference as is permitted by Acts IX. and X. having been duly brought under the consideration of the General Assembly, it is competent to the Assembly, if they see fit, to appoint a Special Commission to hear the evidence on both sides, and give a deliverance as to its effect. And it is provided that any Special Commission so appointed shall report their deliverance to the General Assembly, or to its ordinary Commission, at one of its stated diets (as the Assembly may direct), who shall pronounce such sentence, or issue such instructions to the Presbytery, as to them may seem fit. There can be no doubt, at the same time, that it is equally competent for the Assembly either to try the case themselves or to dismiss the reference, so as to require the Presbytery to carry the case to its conclusion, or to sustain the reference, and to give special instructions to the Presbytery with respect to their procedure.

Special Commission.

7. Because the General Assembly is the Supreme Court, beyond which there is no power of Appeal in point of form, it is competent for it to exercise what is called the *nobile officium*; that is to say, when a case is fairly before it, it may take such action regarding it as may appear most for the interests of truth and the cause of justice, provided it do not exceed the powers vested in it by the ecclesiastical constitution. At any stage of procedure brought constitutionally under its view, the Assembly may either give special instructions to a Presbytery, or appoint Assessors to assist them, or appoint a Special Commission to deal with a matter for the right conduct of which the Presbytery may be disabled by any peculiarity of circumstances. But, notwithstanding the general principle which would justify such interference by the Assembly in extraordinary emergencies, it is held that, without an extraordinary emergency, it requires special legislation to warrant any disturbance of the ordinary course of Discipline, even by the authority of the Assembly.

*Nobile Officium*

8. The Assembly, on reviewing the Records of Synods, may discover indications which may call for inquiry as to whether or not discipline has been neglected, or administered irregularly; it may perceive what it considers as proof of such neglect or irregularity. In these circumstances, it is warranted to interpose its authority, at least to the effect of correcting errors in the procedure of the in-

Review of Synod Records.

CHAP. V.      ferior Courts, of ordering their objectionable Minutes to be deleted,  
 ——— and of instructing them as to the procedure which they ought now  
 PART V.      to follow.

Case of palpable  
 scandal, heresy,  
 or contumacy.

9. If any case of palpable scandal, or heresy, or contumacy be forced by circumstances upon the attention of the General Assembly before it has reached any inferior Court having jurisdiction over the party, the Assembly may either remit such a case to the inferior Court, or deal with it summarily by the direct exercise of their own authority.

Execution of  
 Sentences.

10. If a Libel involving a charge or charges of scandal or heresy be found *proven* by the General Assembly, the sentence following upon such a judgment, whether deposition, suspension *sine die*, or temporary suspension, or rebuke, or admonition, or deprivation of license, may either be pronounced by the Assembly, or reserved for the action of the inferior Court in following out the Assembly's instructions. (See Form of Sentence, Appendix XL. 2.)

APPENDICES  
OF ACTS AND DOCUMENTS.



## APPENDIX I.

### HISTORICAL DOCUMENTS.

#### 1. *Claim, Declaration, and Protest.*

ACT XIX. 1842.—CLAIM, DECLARATION, AND PROTEST, ANENT THE ENCROACHMENTS OF THE COURT OF SESSION.

THE GENERAL ASSEMBLY OF THE CHURCH OF SCOTLAND, taking into con- APPENDIX I. L  
sideration the solemn circumstances in which, in the inscrutable providence  
of God, this Church is now placed ; and that, notwithstanding the securities  
for the Government thereof by General Assemblies, Synods, Presbyteries,  
and Kirk-Sessions, and for the liberties, government, jurisdiction, discipline,  
rights, and privileges of the same, provided by the statutes of the realm, by  
the constitution of this country, as unalterably settled by the Treaty of  
Union, and by the oath, “inviolably to maintain and preserve” the same,  
required to be taken by each Sovereign at accession, as a condition precedent  
to the exercise of the royal authority ;—which securities might well seem,  
and had long been thought, to place the said liberties, government, jurisdic-  
tion, discipline, rights, and privileges, of this Church, beyond the reach of  
danger or invasion ;—these have been of late assailed by the very Court to  
which the Church was authorised to look for assistance and protection, to an  
extent that threatens their entire subversion, with all the grievous calamities  
to this Church and nation which would inevitably flow therefrom ;—did and  
hereby do solemnly, and in reliance on the grace and power of the Most  
High, resolve and agree on the following Claim, Declaration, and Protest :  
That is to say :—

*Historical  
Documents.*

Claim of Right.

WHEREAS it is an essential doctrine of this Church, and a fundamental  
principle in its constitution, as set forth in the Confession of Faith thereof,  
in accordance with the Word and law of the most holy God, that “there is  
no other Head of the Church but the Lord Jesus Christ” (ch. xxv. sec. 6) ;  
and that, while “God, the supreme Lord and King of all the world, hath  
ordained civil magistrates to be under him over the people, for his own  
glory, and the public good, and to this end hath armed them with the power  
of the sword” (ch. xxiii. sec. 1) ; and while “it is the duty of people to pray  
for magistrates, to honour their persons, to pay them tribute and other dues,  
to obey their lawful commands, and to be subject to their authority for  
conscience’ sake,” “from which ecclesiastical persons are not exempted”  
(ch. xxiii. sec. 4) ; and while the magistrate hath authority, and it is his duty,  
in the exercise of that power which alone is committed to him, namely,  
“the power of the sword,” or civil rule, as distinct from the “power of  
the keys,” or spiritual authority, expressly denied to him, to take order for  
the preservation of purity, peace, and unity in the Church, yet “The Lord  
Jesus, as King and Head of his Church, hath therein appointed a government

APPENDIX I. 1. in the hand of Church officers distinct from the civil magistrate" (ch. xxx. sec. 1); which government is ministerial, not lordly, and to be exercised in consonance with the laws of Christ, and with the liberties of his people:

*Historical Documents.*

—  
Claim of Right.

AND WHEREAS, according to the said Confession, and to the other standards of the Church, and agreeably to the Word of God, this government of the Church, thus appointed by the Lord Jesus, in the hand of Church officers, distinct from the civil magistrate or supreme power of the State, and flowing directly from the Head of the Church to the office-bearers thereof, to the exclusion of the civil magistrate, comprehends, as the objects of it, the preaching of the Word, administration of the Sacraments, correction of manners, the admission of the office-bearers of the Church to their offices, their suspension and deprivation therefrom, the infliction and removal of Church censures, and, generally, the whole "power of the keys," which, by the said Confession, is declared, in conformity with Scripture, to have been "committed" (ch. xxx. sec. 2) to Church officers, and which, as well as the preaching of the Word and the administration of the Sacraments, it is likewise thereby declared, that "the civil magistrate may not assume to himself" (ch. xxiii. sec. 3):

AND WHEREAS this jurisdiction and government, since it regards only spiritual condition, rights, and privileges, doth not interfere with the jurisdiction of secular tribunals, whose determinations as to all temporalities conferred by the State upon the Church, and as to all civil consequences attached by law to the decisions of Church Courts in matters spiritual, this Church hath ever admitted, and doth admit, to be exclusive and ultimate, as she hath ever given and inculcated implicit obedience thereto:

AND WHEREAS the above-mentioned essential doctrine and fundamental principle in the constitution of the Church, and the government and exclusive jurisdiction flowing therefrom, founded on God's Word, and set forth in the Confession of Faith and other standards of this Church, have been, by diverse and repeated Acts of Parliament, recognised, ratified, and confirmed;—inasmuch as,—

*First*, The said Confession itself, containing the doctrine and principles above set forth, was "ratified and established, and voted and approved as the public and avowed Confession of this Church," by the fifth Act of the second session of the first Parliament of King William and Queen Mary, entitled, "Act ratifying the Confession of Faith, and Settling Presbyterian Church Government" (1690, c. 5): to which Act the said Confession is annexed, and with it incorporated in the statute law of this kingdom.

*Second*, By an Act passed in the first Parliament of King James VI., entitled, "Of admission of ministers: of laic patronages" (1567, c. 7), it is enacted and declared, "That the examination and admission of ministers within this realm be only in the power of the Kirk, now openly and publicly professed within the same;" and while the "presentation of laic patronages" was thereby "reserved to the just and ancient patrons," it was provided, that, if the presentee of a patron should be refused to be admitted by the inferior ecclesiastical authorities, it should be lawful for the patron "to appeal to the General Assembly of the whole realm, by whom the cause being decided, shall take end as they discern and declare."

*Third*, By an Act passed in the same first Parliament, and renewed in the sixth Parliament of the said King James VI., entitled, "Anent the jurisdiction of the Kirk" (1567, c. 12. *Fol. Edit.*), the said Kirk is declared to have jurisdiction "in the preaching of the true Word of Jesus Christ, correction of manners, and administration of the holy



sacraments" (1579, c. 69); and it is further declared, "that there be no other jurisdiction ecclesiastical acknowledged within this realm, other than that which is and shall be within the same Kirk, or that flows therefrom, concerning the premises;" which Act, and that last before mentioned, were ratified and approved by another Act passed in the year 1581, entitled, "Ratification of the liberty of the true Kirk of God and religion, with confirmation of the laws and Acts made to that effect of before" (1581, c. 99); which other Act, and all the separate Acts therein recited, were again revived, ratified, and confirmed by an Act of the twelfth Parliament of the said King James VI., entitled, "Ratification of the liberty of the true Kirk," etc. (1592, c. 116); which said Act (having been repealed in 1662) was revived, renewed, and confirmed by the before-mentioned statute of King William and Queen Mary (1690, c. 5).

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*Fourth*, The said Act of the twelfth Parliament of King James VI., ratified and approved the General Assemblies, Provincial Synods, Presbyteries, and Kirk-Sessions "appointed by the Kirk" (1592, c. 116), and "the whole jurisdiction and discipline of the same Kirk;" cassed and annulled "all and whatsoever acts, laws, and statutes, made at any time before the day and date thereof, against the liberty of the true Kirk, jurisdiction and discipline thereof, as the same is used and exercised within this realm;" appointed presentations to benefices to be directed to Presbyteries, "with full power to give collation thereupon, and to put order to all matters and causes ecclesiastical within their bounds, according to the discipline of the Kirk, providing the foresaid Presbyteries be bound and astricted to receive and admit whatsoever qualified minister, presented by his Majesty or laic patrons" (the effect of which proviso and of the reservation in the Act of the first Parliament of King James VI., above mentioned (1567, c. 7), is hereinafter more fully adverted to); and further declared that the jurisdiction of the Sovereign and his Courts, as set forth in a previous Act (1584, c. 129), to extend over all persons his subjects, and "in all matters," should "noways be prejudicial nor derogate anything to the privilege that God has given to the spiritual office-bearers of the Kirk, concerning heads of religion, matters of heresy, excommunication, collation, or deprivation of ministers, or any such like essential censures, grounded and having warrant of the Word of God;" by which enactment, declaration, and acknowledgment, the State recognised and established as a fundamental principle of the constitution of the kingdom, that the jurisdiction of the Church in these matters was "given by God" to the office-bearers thereof, and was exclusive, and free from coercion by any tribunals holding power or authority from the State or supreme civil magistrate.

*Fifth*, The Parliament holden by King Charles II. (1662, c. 1), immediately on his restoration to the throne, while it repealed the above recited Act of the twelfth Parliament of King James, and other relative Acts (1592, c. 116), at the same time acknowledged the supreme and exclusive nature of the jurisdiction thereby recognised to be in the Church, describing the said Acts, as Acts "by which the sole and only power and jurisdiction within this Church doth stand in the Church, and in the general, provincial, and presbyterial assemblies and kirk-sessions," and as Acts "which may be interpreted to have given any Church power, jurisdiction, or government to the office-bearers of the Church, their respective meetings, other than that which acknowledged a dependence upon, and subordination to, the sovereign power of the King, as supreme."

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*Sixth*, The aforesaid Act of King William and Queen Mary (1690, c. 5),—on the narrative that their Majesties and the estates of Parliament conceived “it to be their bounden duty, after the great deliverance that God hath lately wrought for this Church and kingdom, *in the first place*, to settle and secure therein the true Protestant religion, according to the truth of God’s Word, as it hath of a long time been professed within this land ; as also, the government of Christ’s Church within this nation, agreeable to the Word of God, and most conducive to true piety and godliness, and the establishing of peace and tranquillity within this realm,”—besides ratifying and establishing as aforesaid the Confession of Faith, did also “establish, ratify, and confirm the Presbyterian Church government and discipline ; that is to say, *the government of the Church by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies*, ratified and established by the 116 Act of James VI., Parliament 12, anno 1592, entitled, ‘*Ratification of the liberty of the true Kirk,*’ etc. (1592, c. 116), and thereafter received by the general consent of this nation, *to be the only government of Christ’s Church within this kingdom ;*” and revived and confirmed the said Act of King James VI.

AND WHEREAS, not only was the exclusive and ultimate jurisdiction of the Church Courts, in the government of the Church, and especially in the particular matters, spiritual and ecclesiastical, above mentioned, recognised, ratified and confirmed—thus necessarily implying the denial of power on the part of any secular tribunal, holding its authority from the Sovereign. to review the sentence of the Church Courts in regard to such matters, or coerce them in the exercise of such jurisdiction ;—but all such power, and all claim on the part of the Sovereign to be considered supreme governor over the subjects of this kingdom of Scotland in causes *ecclesiastical and spiritual*, as he is in causes *civil and temporal*, was after a long continued struggle, finally and *expressly repudiated and cast out of the constitution* of Scotland, *as inconsistent with the Presbyterian Church government* established at the Revolution, and thereafter unalterably secured by the Treaty of Union with England ; by the constitution of which latter kingdom, differing in this respect from that of Scotland, the Sovereign is recognised to be supreme governor, “*as well in all spiritual and ecclesiastical things and causes as temporal ;*” Thus :—

*First*, The General Assembly having, in the year 1582, proceeded to inflict the censures of the Church upon Robert Montgomery, minister of Stirling, for seeking to force himself, under a presentation from the King, into the archbishopric of Glasgow, contrary to an act of the General Assembly discharging the office of Prelatic bishop in the Church, and for appealing to the secular tribunals against the infliction of Church censures by the Church Courts, and seeking to have these suspended and interdicted—and having deposed and excommunicated him, notwithstanding of an interdict pronounced by the Privy Council of Scotland, the then supreme secular court of the kingdom—and having at the same time declared it to be part of the subsisting discipline of the Church, that any ministers thereof who “should seek any way by the civil power to exempt and withdraw themselves from the jurisdiction of the Kirk, or procure, obtain, or use any letters or charges, etc., to impair, hurt, or stay the said jurisdiction, discipline, etc., or to make any appellation from the General Assembly to stop the discipline or order of the ecclesiastical policy or jurisdiction granted by God’s Word to the office-bearers within the said Kirk,” were liable to the highest censures of the Church ; although their sentence of excommunication was declared

by one of the Acts of Parliament of the year 1584, commonly called the "Black Acts," to be void, yet ultimately the King and Privy Council abandoned their interference. Montgomery submitted to the Church Courts, and the statute of the twelfth Parliament of King James VI., already mentioned (1592, c. 116), cassed and annulled "all and whatsoever acts, laws, and statutes made at any time before the day and date thereof, against the liberty of the true Kirk, jurisdiction and discipline thereof, *as the same is used and exercised within this realm;*" since which enactment, no similar interference with the discipline and censures of the Church was ever attempted till the year 1841.

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*Second,* It having been declared by another of the "Black Acts" aforesaid (1584, c. 129), entitled, "An Act confirming the King's Majesty's royal power over all the estates and subjects within this realm," that "his Highness, his heirs and successors, by themselves and their councils, are, and in time to come shall be, judges competent to all persons his Highness' subjects, of whatsoever estate, degree, function, or condition that ever they be of, spiritual or temporal, *in all matters* wherein they or any of them, shall be apprehended, summoned, or charged to answer to such things as shall be inquired of them by our sovereign lord and his council," it was, by the said before-mentioned Act of the twelfth Parliament of King James VI. (1592, c. 116), declared that the said Act last above mentioned "shall noways be prejudicial, nor derogate any thing to the privilege that God has given to the spiritual office-bearers of the Kirk, concerning heads of religion, matters of heresy, excommunication, collation, or deprivation of ministers, or any such like essential censures, specially grounded and having warrant of the Word of God."

*Third,* It having been enacted, on the establishment of Prelacy in 1612 (1612, c. 1), that every minister, at his admission, should swear obedience to the Sovereign as "the only lawful supreme governor of this realm, as well in matters spiritual and ecclesiastical as in things temporal," the enactment to this effect was repealed on the restoration of Presbyterian Church government (1640, c. 7).

*Fourth,* A like acknowledgment, that the Sovereign was "the only supreme governor of this kingdom over all persons *and in all causes*" (1661, c. 11), having been, on the second establishment of Prelacy consequent on the restoration of King Charles II., required as part of the ordinary oath of allegiance, and having been also inserted into the "Test Oath" (1681, c. 6), so tyrannically attempted to be forced on the subjects of this realm during the reigns of Charles II. and James II., and the same doctrine of the King's supremacy in all causes, spiritual and ecclesiastical, as well as temporal and civil, having farther been separately and specially declared by the first Act of the second Parliament of the said King Charles II. (1669, c. 1), entitled, "Act asserting his Majesty's supremacy over all persons and in all causes ecclesiastical," whereby it was "enacted, asserted, and declared, that his Majesty hath the supreme authority and supremacy over all persons, and in all causes ecclesiastical, within this kingdom" (Estates, 1689, c. 18),—the Estates of this kingdom, at the era of the Revolution, did set forth, as the second article of the "Grievances" of which they demanded redress under their "Claim of Right," "That the first Act of Parliament 1669 is inconsistent with the establishment of Church government now desired, and ought to be abrogated."

*Fifth,* In compliance with this claim, an Act was immediately thereafter passed (1690, c. 1), of which the tenor follows:—"Our Sovereign

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Lord and Lady the King and Queen's Majesties, taking into their consideration that, by the second article of the Grievances presented to their Majesties by the estates of this kingdom, it is declared, that the first Act of the second Parliament of King Charles the Second, entituled, 'Act asserting his Majesty's supremacy over all persons and in all causes ecclesiastical,' is inconsistent with the establishment of the Church government now desired, and ought to be abrogated: Therefore their Majesties, with advice and consent of the estates of Parliament, do hereby abrogate, rescind, and annul the foresaid Act, and declares the same, in the whole heads, articles, and clauses thereof, to be of no force or effect in all time coming." In accordance also therewith, the oath of allegiance above mentioned, requiring an acknowledgment of the King's sovereignty "in all causes" (1689, c. 2), was done away, and that substituted which is now in use, simply requiring a promise to be "faithful, and bear true allegiance" to the sovereign; and all preceding laws and Acts of Parliament were rescinded, "in so far as they impose any other oaths of allegiance and supremacy, declarations and tests, excepting the oath *de fidei*." By the which enactments any claim on the part of the Sovereigns of Scotland to be supreme rulers in spiritual and ecclesiastical, as well as in temporal and civil causes, or to possess any power, by themselves or their judges holding commission from them, to exercise jurisdiction in matters or causes spiritual and ecclesiastical, was repudiated and excluded from the constitution, as inconsistent with the Presbyterian Church government then established, and secured under the statutes then and subsequently passed, "to continue, without any alteration, to the people of this land, in all succeeding generations" (1706, c. 6).

AND WHEREAS, diverse civil rights and privileges were, by various statutes of the Parliament of Scotland, prior to the Union with England, secured to this Church, and certain civil consequences attached to the sentences of the Courts thereof, which were farther directed to be aided and made effectual by all magistrates, judges, and officers of the law; and in particular:—

It was by an Act of the twelfth Parliament of King James VI. (1592, c. 117), enacted, "That all and whatsoever sentences of deprivation, either pronounced already, or that happens to be pronounced hereafter by the Presbytery, Synodal or General Assemblies, against any parson or vicar within their jurisdiction, provided since his Highness' coronation, is, and shall be reputed in all judgments, a just cause to seclude the person before provided, and then deprived, from all profits, commodities, rents, and duties of the said parsonage and vicarage, or benefice of cure; and that either by way of action, exception, or reply; and that the said sentence of deprivation shall be a sufficient cause to make the said benefice to vaiketh thereby:"

As also, by the fifth Act of the first Parliament of King William and Queen Mary (1690, c. 5), it was enacted, "that whatsoever minister, being convened before the said general meeting, and representatives of the Presbyterian ministers or elders, or the visitors to be appointed by them, shall either prove contumacious for not appearing, or be found guilty, and shall be therefor censured, whether by suspension or deposition, they shall, *ipso facto*, be suspended from or deprived of their stipends and benefices:"

As also, by an Act passed in the fourth session of the first Parliament of King William and Queen Mary (1693, c. 22), entituled an "Act for

settling the peace and quiet of the Church," it was provided, that no minister should be admitted, unless he owned the Presbyterian Church government, as settled by the last recited Act, "to be the only government of this Church;" "and that he will submit thereto, and concur therewith, and never endeavour, directly or indirectly, the prejudice or subversion thereof;" and it was statute or ordained, "that the lords of their Majesties' Privy Council, and all other magistrates, judges, and officers of justice, give all due assistance for making the sentences and censures of the Church, and judicatories thereof, to be obeyed, or otherwise effectual as accords:"

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As also, by an Act passed in the fifth session of the foresaid Parliament (1695, c. 22), entituled an "Act against intruding into churches without a legal call and admission thereto," on the narrative, "that ministers and preachers, their intruding themselves into vacant churches, possessing of manes and benefices, and exercising any part of the ministerial sanction in parishes, without a legal call and admission to the said churches, is an high contempt of the law, and of a dangerous consequence, tending to perpetual schism;" such intrusion, without an orderly call from the heritors and elders—the right of presentation by patrons being at this time abolished—and "legal admission from the Presbytery," was prohibited under certain penalties; and the Lords of the Privy Council were recommended to remove all who had so intruded, and "to take some effectual course for stopping and hindering those ministers who are, or shall be hereafter deposed by the judicatories of the present Established Church, from preaching or exercising any act of their ministerial function, which" (the said statute declares) "they cannot do after they are deposed, without a high contempt of the authority of the Church, and of the laws of the kingdom establishing the same."

AND WHEREAS, at the Union between the two kingdoms, the Parliament of Scotland, being determined that the "true Protestant religion," as then professed, "with the worship, discipline, and government of this Church, should be effectually and unalterably secured," did, in their Act appointing commissioners to treat with commissioners from the Parliament of England (1705, c. 4), as to an union of the kingdoms, provide "That the said commissioners shall *not* treat of or concerning any alteration of the worship, discipline, and government of the Church of this kingdom, as now by law established;" and did, by another Act, commonly called the Act of Security (1706, c. 6), and entituled, "Act for securing the Protestant religion and Presbyterian Church government," establish and confirm the said true Protestant religion, and the worship, discipline, and government of this Church, to continue without any alteration to the people of this land in all succeeding generations;" and did "for ever confirm the fifth Act of the first Parliament of King William and Queen Mary" (1690, c. 5), entituled, "Act ratifying the Confession of Faith, and settling Presbyterian Church government, and the whole other Acts of Parliament relating thereto;" and did "expressly provide and declare, That the foresaid true Protestant religion, contained in the above-mentioned Confession of Faith, with the form and purity of worship presently in use within this Church, and its Presbyterian Church government and discipline,—that is to say, the government of the Church by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies, all established by the foresaid Acts of Parliament, pursuant to the Claim of Right, shall remain and continue unalterable; and that the said Presbyterian government shall be the only government of the Church within the kingdom of Scotland:" And farther, "for the greater security of



APPENDIX I. 1. a party not having, in her conscientious judgment, a legitimate call thereto, or by intruding a pastor on a reclaiming congregation contrary to their will; and farther, addressed herself to the Government and the Legislature for such an alteration of the law (as for the first time now interpreted), touching the temporalities belonging to the Church (which alone she held the decision of the House of Lords to be capable of affecting or regulating), as might prevent a separation between the cure of souls and the benefice thereto attached:

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AND WHEREAS, although during the century which elapsed after the passing of the said Act of Queen Anne, Presbyteries repeatedly rejected the presentees of patrons on grounds undoubtedly *ultra vires* of the Presbyteries, as having reference to the title of the patron or the validity of competing presentations, and which were held by the Court of Session to be contrary to law, and admitted others to the pastoral office in the parishes presented to, who had no presentation or legal title to the benefice, the said Court, even in such cases, never attempted or pretended to direct or coerce the Church Courts, in the exercise of their functions in regard to the collation of ministers, or other matters acknowledged by the State to have been conferred on the Church, not by the State, but by God himself. On the contrary, they limited these decrees to the regulation and disposal of the temporalities which were derived from the State, and which, as the proper subjects of "actions civil," were within the province assigned to the Court of Session, by the Constitution refusing to interfere with the peculiar functions and exclusive jurisdiction of the Courts of the Church. Thus,—

IN the case of Auchtermuchty,<sup>1</sup> where the Presbytery had wrongfully admitted another than the patron's presentee, the Court found "That the right to a stipend is a civil right; and therefore that the Court have power to cognosce and determine upon the legality of the admission of ministers *in hunc effectum*, whether the person admitted shall have right to the stipend or not; and simply decided, that the patron was entitled to retain the stipend in his own hands.

So also, the same course was followed in the cases of Culross, Lanark, and Forbes;<sup>2</sup> in reference to one of which (that of Lanark), the Government of the country, on behalf of the Crown, in which the patronage was vested, recognised the retention of stipend by the patron, as the only competent remedy for a wrongful refusal to admit his presentee; the Secretary of State having, in a letter to the Lord Advocate of Scotland (January 17, 1752), signified the pleasure of his Majesty, "directing and ordering his lordship to do every thing necessary and competent by law, for asserting and taking benefit in the present case of the said right and privilege of patrons by the law of Scotland to retain the fruits of the benefice in their own hands till their presentee be admitted."

So farther, in the before-mentioned case of Culross,<sup>3</sup> the Court refused, "as incompetent," a bill of advocation presented to them by the patron, for the purpose of staying the admission by the Presbytery of another than his presentee.

So likewise, in the case of Dunse,<sup>4</sup> the Court would not interfere in regard to a conclusion to prohibit the Presbytery "to moderate in a call at large, or settle any other man," because "that was interfering with

<sup>1</sup> *Mouerieff v. Maxton*, Feb. 15, 1735.

<sup>2</sup> *Cochrane v. Stoddart*, June 26, 1751. *Dick v. Carmichael*, March 2, 1753. *Forbes v. William*, February 1762.

<sup>3</sup> *Cochrane*, November 19, 1748.

<sup>4</sup> *Hay v. Presbytery of Dunse*, February 26, 1749.



the power of ordination, or internal policy of the Church, with which the Lords thought they had nothing to do." APPENDIX I. 1.

And so, in the same manner, in the case of Unst,<sup>1</sup> where the party concluded to have the Presbytery ordained to proceed to the presentee's settlement as well as to have the validity of the presentation and the right to the stipend declared, the Court limited their decree to the civil matters of the presentation and stipend. Historical Documents.  
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AND WHEREAS, pending the efforts of the Church to accomplish the desired alteration of the law, the Court of Session,—a tribunal instituted by special Act of Parliament for the specific and limited purpose of "doing and administration of justice in all *civil actions*" (1537, c. 36), with judges appointed simply "to sit and decide upon all *actions civil*" (1532, c. 1),—not confining themselves to the determination of "*civil actions*,"—to the withholding of civil consequences from sentences of the Church Courts, which, in their judgment, were not warranted by the statutes recognising the jurisdiction of these Courts,—to the enforcing of the provision of the Act 1592, c. 117, for retention of the fruits of the benefice in case of wrongful refusal to admit a presentee, or the giving of other civil redress for any civil injury held by them to have been wrongfully sustained in consequence thereof,—have, in numerous and repeated instances, stepped beyond the province allotted to them by the Constitution, and within which alone their decisions can be held to declare the law, or to have the force of law, deciding not only "*actions civil*," but "*causes spiritual and ecclesiastical*,"—and that, too, even where these had no connection with the exercise of the right of patronage,—and have invaded the jurisdiction, and encroached upon the spiritual privileges of the Courts of this Church, in violation of the constitution of the country—in defiance of the statutes above mentioned, and in contempt of the laws of this kingdom: as for instance—

- By interdicting Presbyteries of the Church from admitting to a pastoral charge,<sup>2</sup> when about to be done irrespective of the civil benefice attached thereto, or even where there was no benefice—no right of patronage—no stipend—no manse or glebe, and no place of worship, or any patrimonial right, connected therewith.<sup>3</sup>
- By issuing a decree,<sup>4</sup> requiring and ordaining a Church Court to take on trial and admit to the office of the holy ministry, in a particular charge, a probationer or unordained candidate for the ministry, and to intrude him also on the congregation, contrary to the will of the people;—both in this, and in the cases first mentioned, invading the Church's exclusive jurisdiction in the admission of ministers, the preaching of the Word, and administration of Sacraments—recognised by statute to have been "given by God" directly to the Church, and to be beyond the limits of the secular jurisdiction.
- By prohibiting the communicants<sup>5</sup> of the Church from intimating their dissent from a call proposed to be given to a candidate for the ministry to become their pastor.
- By granting interdict against the establishment of additional ministers to meet the wants of an increasing population,<sup>6</sup> as uninterruptedly practised from the Reformation to this day: against constituting a new kirk-session in a parish, to exercise discipline; and against innovating on its existing state, "as regards pastoral superintendence, its kirk-session, and jurisdiction and discipline thereto belonging."

<sup>1</sup> Lord Dundas v. Presbytery of Shetland, May 15, 1795.

<sup>2</sup> 1st Lethendy Case.

<sup>4</sup> Marnoch Case.

<sup>5</sup> Daviot Case.

<sup>3</sup> Stewarton Case.

<sup>6</sup> Stewarton Case.

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Documents.

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So also, the same course was followed in the cases of Culross, Lanark, and Forbes;<sup>2</sup> in reference to one of which (that of Lanark), the Government of the country, on behalf of the Crown, in which the patronage was vested, recognised the retention of stipend by the patron, as the only competent remedy for a wrongful refusal to admit his presentee; the Secretary of State having, in a letter to the Lord Advocate of Scotland (January 17, 1752), signified the pleasure of his Majesty, "directing and ordering his lordship to do every thing necessary and competent by law, for asserting and taking benefit in the present case of the said right and privilege of patrons by the law of Scotland to retain the fruits of the benefice in their own hands till their presentee be admitted."

So farther, in the before-mentioned case of Culross,<sup>3</sup> the Court refused, "as incompetent," a bill of advocacy presented to them by the patron, for the purpose of staying the admission by the Presbytery of another than his presentee.

So likewise, in the case of Dunse,<sup>4</sup> the Court would not interfere in regard to a conclusion to prohibit the Presbytery "to moderate in a call at large, or settle any other man," because "that was interfering with

<sup>1</sup> Moncrieff v. Maxton, Feb. 15, 1735.

<sup>2</sup> Cochrane v. Stoddart, June 26, 1751. Dick v. Carmichael, March 2, 1753. Forbes v. M'William, February 1762.

<sup>3</sup> Cochrane, November 19, 1748.

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Historical Documents.

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AND WHEREAS, pending the efforts of the Church to accomplish the desired alteration of the law, the Court of Session,—a tribunal instituted by special Act of Parliament for the specific and limited purpose of "doing and administration of justice in all *civil actions*" (1537, c. 36), with judges appointed simply "to sit and decide upon all *actions civil*" (1532, c. 1),—not confining themselves to the determination of "*civil actions*,"—to the withholding of civil consequences from sentences of the Church Courts, which, in their judgment, were not warranted by the statutes recognising the jurisdiction of these Courts,—to the enforcing of the provision of the Act 1592, c. 117, for retention of the fruits of the benefice in case of wrongful refusal to admit a presentee, or the giving of other civil redress for any civil injury held by them to have been wrongfully sustained in consequence thereof,—have, in numerous and repeated instances, stepped beyond the province allotted to them by the Constitution, and within which alone their decisions can be held to declare the law, or to have the force of law, deciding not only "*actions civil*," but "*causes spiritual and ecclesiastical*,"—and that, too, even where these had no connection with the exercise of the right of patronage,—and have invaded the jurisdiction, and encroached upon the spiritual privileges of the Courts of this Church, in violation of the constitution of the country—in defiance of the statutes above mentioned, and in contempt of the laws of this kingdom: as for instance—

By interdicting Presbyteries of the Church from admitting to a pastoral charge,<sup>2</sup> when about to be done irrespective of the civil benefice attached thereto, or even where there was no benefice—no right of patronage—no stipend—no manse or glebe, and no place of worship, or any patrimonial right, connected therewith.<sup>3</sup>

By issuing a decree,<sup>4</sup> requiring and ordaining a Church Court to take on trial and admit to the office of the holy ministry, in a particular charge, a probationer or unordained candidate for the ministry, and to intrude him also on the congregation, contrary to the will of the people;—both in this, and in the cases first mentioned, invading the Church's exclusive jurisdiction in the admission of ministers, the preaching of the Word, and administration of Sacraments—recognised by statute to have been "given by God" directly to the Church, and to be beyond the limits of the secular jurisdiction.

By prohibiting the communicants<sup>5</sup> of the Church from intimating their dissent from a call proposed to be given to a candidate for the ministry to become their pastor.

By granting interdict against the establishment of additional ministers to meet the wants of an increasing population,<sup>6</sup> as uninterruptedly practised from the Reformation to this day: against constituting a new kirk-session in a parish, to exercise discipline; and against innovating on its existing state, "as regards pastoral superintendence, its kirk-session, and jurisdiction and discipline thereto belonging."

<sup>1</sup> Lord Dundas v. Presbytery of Shetland, May 15, 1795.

<sup>2</sup> 1st Lethendy Case.

<sup>3</sup> Marnoch Case.

<sup>5</sup> Daviot Case.

<sup>3</sup> Stewarton Case.

<sup>6</sup> Stewarton Case.

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- By interdicting the preaching of the gospel, and administration of ordinances,<sup>1</sup> throughout a whole district, by any minister of the Church under authority of the Church Courts; thus assuming to themselves the regulation of the "preaching of the Word" and "administration of the Sacraments," and at the same time invading the privilege, common to all the subjects of the realm, of having freedom to worship God according to their consciences, and under the guidance of the ministers of the communion to which they belong.
- By holding the members of inferior Church judicatories liable in damages<sup>2</sup> for refusing to break their ordination vows and oaths (sworn by them, in compliance with the requirements of the statutes of the realm, and, in particular, of the Act of Security embodied in the Treaty of Union), by disobeying and setting at defiance the sentences, in matters spiritual and ecclesiastical, of their superior Church judicatories, to which, by the constitution of the Church and country, they are, in such matters, subordinate and subject, and which, by their said vows and oaths, they stand pledged to obey.
- By interdicting the execution of the sentence of a Church judicatory, prohibiting a minister from preaching or administering ordinances within a particular parish,<sup>3</sup> pending the discussion of a cause in the Church Courts as to the validity of his settlement therein.
- By interdicting the General Assembly and inferior Church judicatories from inflicting Church censures; as in one case, where interdict was granted against the pronouncing of sentence of deposition upon a minister found guilty of theft, by a judgment acquiesced in by himself;<sup>4</sup> in another, where a Presbytery was interdicted from proceeding in the trial of a minister accused of fraud and swindling;<sup>5</sup> and in a third, where a Presbytery was interdicted from proceeding with a libel against a licentiate for drunkenness, obscenity, and profane swearing.<sup>6</sup>
- By suspending Church censures,<sup>7</sup> inflicted by the Church judicatories in the exercise of discipline (which, by special statute, all "judges and officers of justice" are ordered "to give due assistance" for making "to be obeyed, or otherwise effectual"), and so reposing ministers suspended from their office, to the power of preaching and administering ordinances; thus assuming to themselves the "power of the keys."
- By interdicting the execution of a sentence of deposition from the office of the holy ministry, pronounced by the General Assembly of the Church;<sup>8</sup> thereby also usurping the "power of the keys," and supporting deposed ministers in the exercise of ministerial functions; which is declared by special statute to be a "high contempt of the authority of the Church, and of the laws of the kingdom establishing the same."
- By assuming to judge of the right of individuals elected members of the General Assembly to sit therein,<sup>9</sup> and interdicting them from taking their seats; thus interfering with the constitution of the Supreme Court of the Church, and violating her freedom in the holding of General Assemblies, secured to her by statute.
- By, in the greater number of instances above referred to, requiring the inferior judicatories of the Church to disobey the sentences, in matters spiritual and ecclesiastical, of the superior judicatories, to which,

<sup>1</sup> Strathbogie Cases.<sup>2</sup> 2d Auchterarder Case.<sup>3</sup> Culsalmond Case.<sup>4</sup> Cambusnethan Case.<sup>5</sup> Stranraer Case.<sup>6</sup> 4th Lethendy Case.<sup>7</sup> 1st and 2d Strathbogie Cases<sup>8</sup> 3d Strathbogie Case.<sup>9</sup> 5th Strathbogie Case.

by the constitution in Church and State, they are subordinate and subject, and which, in compliance with the provisions of the statutes of the realm, their members have solemnly sworn to obey;—thus subverting “the government of the Church by Kirk-sessions, Presbyteries, Provincial Synods, and General Assemblies,” settled by statute and the Treaty of Union, as “the only government of the Church within the kingdom of Scotland.”

By all which acts, the said Court of Session, apparently not adverting to the oath taken by the Sovereign, from whom they hold their commissions, have exercised powers not conferred upon them by the Constitution, but by it excluded from the province of any secular tribunal,—have invaded the jurisdiction of the Courts of the Church,—have subverted its government,—have illegally attempted to coerce Church Courts in the exercise of their purely spiritual functions,—have usurped the “power of the keys,”—have wrongfully acclaimed, as the subjects of their civil jurisdiction, to be regulated by their decrees, ordination of laymen to the office of the holy ministry, admission to the cure of souls, Church censures, the preaching of the Word, and the administration of the Sacraments,—and have employed the means intrusted to them for enforcing submission to their lawful authority, in compelling submission to that which they have usurped,—in opposition to the doctrines of God’s Word set forth in the Confession of Faith, as ratified by statute,—in violation of the Constitution,—in breach of the Treaty of Union, and in disregard of divers express enactments of the Legislature :

AND WHEREAS farther encroachments are threatened on the government and discipline of the Church as by law established,<sup>1</sup> in actions now depending before the said Court, in which it is sought to have sentences of deposition from the office of the holy ministry reduced and set aside,<sup>2</sup> and minorities of inferior judicatories authorized to take on trial and admit to the office of the holy ministry, in disregard of, and in opposition to, the authority of the judicatories of which they are members, and of the superior judicatories to which they are subordinate and subject :

AND WHEREAS the government and discipline of Christ’s Church cannot be carried on according to his laws and the constitution of his Church, subject to the exercise, by any secular tribunal, of such powers as have been assumed by the said Court of Session :

AND WHEREAS this Church, highly valuing, as she has ever done, her connection, on the terms contained in the statutes herein before recited, with the State, and her possession of the temporal benefits thereby secured to her for the advantage of the people, must, nevertheless, even at the risk and hazard of the loss of that connection and of these public benefits—deeply as she would deplore and deprecate such a result for herself and the nation—persevere in maintaining her liberties as a Church of Christ, and is carrying on the government thereof on her own constitutional principles, and must refuse to intrude ministers on her congregations, to obey the unlawful coercion attempted to be enforced against her in the exercise of her spiritual functions and jurisdiction, or to consent that her people be deprived of their rightful liberties :

THEREFORE, the General Assembly, while, as above set forth, they fully recognise the absolute jurisdiction of the Civil Courts in relation to all matters whatsoever of a civil nature, and especially in relation to all the temporalities conferred by the State upon the Church, and the civil conse-

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<sup>1</sup> 4th Strathbogie Case.

<sup>2</sup> 3d Auchterarder Case. 3d Lethendy Case.

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## Claim of Right.

quences attached by law to the decisions, in matters spiritual, of the Church Courts,—DO, in name and on behalf of this Church, and of the nation and people of Scotland, and under the sanction of the several statutes, and the Treaty of Union herein before recited, CLAIM, as of RIGHT, That she shall freely possess and enjoy her liberties, government, discipline, rights, and privileges, according to law, especially for the defence of the spiritual liberties of her people, and that she shall be protected therein from the foresaid unconstitutional and illegal encroachments of the said Court of Session, and her people secured in their Christian and constitutional rights and liberties.

AND they DECLARE, that they cannot, in accordance with the Word of God, and the authorized and ratified standards of this Church, and the dictates of their consciences, intrude ministers on reclaiming congregations, or carry on the government of Christ's Church, subject to the coercion attempted by the Court of Session as above set forth; and, that, at the risk and hazard of suffering the loss of the secular benefits conferred by the State, and the public advantages of an Establishment, they must, as by God's grace they will, refuse so to do: for, highly as they estimate these, they cannot put them in competition with the inalienable liberties of a Church of Christ, which, alike by their duty and allegiance to their Head and King, and by their ordination vows, they are bound to maintain, "notwithstanding of whatsoever trouble or persecution may arise."

AND they PROTEST, that all and whatsoever Acts of the Parliament of Great Britain, passed without the consent of this Church and nation, in alteration of or derogation to the aforesaid government, discipline, right, and privileges of this Church (which were not allowed to be treated of by the Commissioners for settling the terms of the union between the two kingdoms, but were secured by antecedent stipulation, provided to be inserted, and inserted in the Treaty of Union, as an unalterable and fundamental condition thereof, and so reserved from the cognizance and power of the federal Legislature created by the said Treaty), as also, all and whatsoever sentences of Courts in contravention of the same government, discipline, right, and privileges, are, and shall be, in themselves void and null, and of no legal force or effect; and that, while they will accord full submission to all such acts and sentences, in so far—though in so far only,—as these may regard civil rights and privileges, whatever may be their opinion of the justice or legality of the same, their said submission shall not be deemed an acquiescence therein, but that it shall be free to the members of this Church, or their successors, at any time hereafter, when there shall be a prospect of obtaining justice, to claim the restitution of all such civil rights and privileges, and temporal benefits and endowments, as for the present they may be compelled to yield up, in order to preserve to their office-bearers the free exercise of their spiritual government and discipline, and to their people the liberties, of which respectively it has been attempted, so contrary to law and justice, to deprive them.

AND, FINALLY, the General Assembly call the Christian people of this kingdom, and all the Churches of the Reformation throughout the world, who hold the great doctrine of the sole Headship of the Lord Jesus over his Church, to witness, that it is for their adherence to that doctrine, as set forth in their Confession of Faith, and ratified by the laws of this kingdom, and for the maintenance by them of the jurisdiction of the office-bearers, and the freedom and privileges of the members of the Church from that doctrine flowing, that this Church is subjected to hardship, and that the rights so sacredly pledged and secured to her are put in peril; and they especially invite all the office-bearers and members of this Church, who are willing to suffer for their allegiance to their adorable King and Head, to



stand by the Church, and by each other, in defence of the doctrine aforesaid, and of the liberties and privileges, whether of office-bearers or people, which rest upon it; and to unite in supplication to Almighty God, that he would be pleased to turn the hearts of the rulers of this kingdom, to keep unbroken the faith pledged to this Church, in former days, by statutes and solemn treaty, and the obligations, come under to God himself, to preserve and maintain the government and discipline of this Church in accordance with his Word; or otherwise, that he would give strength to this Church—office-bearers and people—to endure resignedly the loss of the temporal benefits of an Establishment, and the personal sufferings and sacrifices to which they may be called, and would also inspire them with zeal and energy to promote the advancement of his Son's kingdom, in whatever condition it may be his will to place them; and that, in his own good time, he would restore to them these benefits, the fruits of the struggles and sufferings of their fathers in times past in the same cause; and, thereafter, give them grace to employ them more effectually than hitherto they have done for the manifestation of his glory.

## 2. Protest.

ACT I. 1843.—PROTEST BY THOSE COMMISSIONERS TO THE GENERAL ASSEMBLY APPOINTED TO MEET ON 18TH MAY 1843, BY WHOM THIS ASSEMBLY WAS CONSTITUTED.

The Commissioners to the General Assembly of the Church of Scotland, appointed to have been holden this day, having met in St. Andrew's Church, the Ministers and Elders, Commissioners thereto, whose names are appended to the Protest then and there made, and hereinafter inserted, having withdrawn from that place, and having convened in a large Hall at Canonmills, in presence of a great concourse of Ministers, Elders, and People, and having duly constituted themselves in the name of the Head of the Church, and appointed the Rev. Dr. Chalmers to be their Moderator, the Protest above-mentioned was produced and read, and thereafter ordered to be recorded as follows:—

WE, the undersigned Ministers and Elders, chosen as Commissioners to the General Assembly of the Church of Scotland, indicted to meet this day, but precluded from holding the said Assembly by reason of the circumstances hereinafter set forth, in consequence of which a Free Assembly of the Church of Scotland, in accordance with the laws and constitution of the said Church, cannot at this time be holden,—

CONSIDERING that the Legislature, by their rejection of the Claim of Right adopted by the last General Assembly of the said Church, and their refusal to give redress and protection against the jurisdiction assumed, and the coercion of late repeatedly attempted to be exercised over the Courts of the Church in matters spiritual by the Civil Courts, have recognised and fixed the conditions of the Church Establishment, as henceforward to subsist in Scotland, to be such as these have been pronounced, and declared by the said Civil Courts in their several recent decisions, in regard to matters spiritual and ecclesiastical, whereby it has been held, *inter alia*,—

1st, That the Courts of the Church by law established, and members thereof, are liable to be coerced by the Civil Courts in the exercise of their spiritual functions; and in particular, in the admission to the office of the holy ministry, and the constitution of the pastoral relation, and that they are subject to be compelled to intrude ministers on reclaiming congregations in opposition to the fundamental principles of the Church, and their views of the Word of God, and to the liberties of Christ's people.

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- APPENDIX I. 2. *2d*, That the said Civil Courts have power to interfere with and interdict the preaching of the gospel and administration of ordinances as authorized and enjoined by the Church Courts of the Establishment.
- Historical Documents.* *3d*, That the said Civil Courts have power to suspend spiritual censures pronounced by the Church Courts of the Establishment against ministers and probationers of the Church, and to interdict their execution as to spiritual effects, functions, and privileges.
- Protest.* *4th*, That the said Civil Courts have power to reduce and set aside the sentences of the Church Courts of the Establishment, deposing ministers from the office of the holy ministry, and depriving probationers of their license to preach the gospel, with reference to the spiritual status, functions, and privileges, of such ministers and probationers,—restoring them to the spiritual office and status of which the Church Courts had deprived them.
- 5th*, That the said Civil Courts have power to determine on the right to sit as members of the supreme and other judicatories of the Church by law established, and to issue interdicts against sitting and voting therein, irrespective of the judgment and determination of the said judicatories.
- 6th*, That the said Civil Courts have power to supersede the majority of a Church Court of the Establishment, in regard to the exercise of its spiritual functions as a Church Court, and to authorize the minority to exercise the said functions, in opposition to the Court itself, and to the superior judicatories of the Establishment.
- 7th*, That the said Civil Courts have power to stay processes of discipline pending before Courts of the Church by law established, and to interdict such Courts from proceeding therein.
- 8th*, That no pastor of a congregation can be admitted into the Church Courts of the Establishment, and allowed to rule, as well as to teach, agreeably to the institution of the office by the Head of the Church, nor to sit in any of the judicatories of the Church, inferior or supreme,—and that no additional provision can be made for the exercise of spiritual discipline among the members of the Church, though not affecting any patrimonial interests, and no alteration introduced in the state of pastoral superintendence and spiritual discipline in any parish, without the sanction of a Civil Court.
- All which jurisdiction and power on the part of the said Civil Courts severally above specified, whatever proceeding may have given occasion to its exercise, is, in our opinion, in itself, inconsistent with Christian liberty, and with the authority which the Head of the Church hath conferred on the Church alone.

AND FURTHER CONSIDERING, that a General Assembly, composed, in accordance with the laws and fundamental principles of the Church, in part of commissioners themselves admitted without the sanction of the Civil Court, or chosen by Presbyteries composed in part of members not having that sanction, cannot be constituted as an Assembly of the Establishment without disregarding the law and the legal conditions of the same as now fixed and declared ;

AND FURTHER CONSIDERING, that such commissioners as aforesaid would, as members of an Assembly of the Establishment, be liable to be interdicted from exercising their functions, and to be subjected to civil coercion at the instance of any individual having interest who might apply to the Civil Courts for that purpose ;

AND CONSIDERING FURTHER, that civil coercion has already been in divers instances applied for and used, whereby certain commissioners returned to the Assembly this day appointed to have been holden, have been interdicted

from claiming their seats, and from sitting and voting therein ; and certain Presbyteries have been, by interdicts directed against their members, prevented from freely choosing commissioners to the said Assembly, whereby the freedom of such Assembly, and the liberty of election thereto, has been forcibly obstructed and taken away ;

AND FURTHER CONSIDERING, that, in these circumstances, a free Assembly of the Church of Scotland, by law established, cannot at this time be holden, and that an Assembly, in accordance with the fundamental principles of the Church, cannot be constituted in connexion with the State without violating the conditions which must now, since the rejection by the Legislature of the Church's claim of right, be held to be the conditions of the Establishment ;

AND CONSIDERING that, while heretofore, as members of Church judicatories ratified by law and recognised by the constitution of the kingdom, we held ourselves entitled and bound to exercise and maintain the jurisdiction vested in these judicatories with the sanction of the constitution, notwithstanding the decrees as to matters spiritual and ecclesiastical of the Civil Courts, because we could not see that the State had required submission thereto as a condition of the Establishment, but, on the contrary, were satisfied that the State, by the acts of the Parliament of Scotland, for ever and unalterably secured to this nation by the Treaty of Union, had repudiated any power in the Civil Courts to pronounce such decrees, we are now constrained to acknowledge it to be the mind and will of the State, as recently declared, that such submission should and does form a condition of the Establishment, and of the possession of the benefits thereof ; and that as we cannot, without committing what we believe to be sin—in opposition to God's law—in disregard of the honour and authority of Christ's crown, and in violation of our own solemn vows, comply with this condition, we cannot in conscience continue connected with, and retain the benefits of, an Establishment to which such condition is attached.

WE, THEREFORE, the Ministers and Elders foresaid, on this, the first occasion since the rejection by the Legislature of the Church's claim of right, when the commissioners chosen from throughout the bounds of the Church to the General Assembly appointed to have been this day holden, are convened together, DO PROTEST, that the conditions foresaid, while we deem them contrary to and subversive of the settlement of church government effected at the Revolution, and solemnly guaranteed by the Act of Security and Treaty of Union, are also at variance with God's word, in opposition to the doctrines and fundamental principles of the Church of Scotland, inconsistent with the freedom essential to the right constitution of a Church of Christ, and incompatible with the government which He, as the Head of his Church, hath therein appointed distinct from the civil magistrate.

And we further PROTEST, that any Assembly constituted in submission to the conditions now declared to be law, and under the civil coercion which has been brought to bear on the election of commissioners to the Assembly this day appointed to have been holden, and on the commissioners chosen thereto, is not and shall not be deemed a lawful and free Assembly of the Church of Scotland, according to the original and fundamental principles thereof ; and that the Claim, Declaration, and Protest, of the General Assembly which convened at Edinburgh in May 1842, as the act of a free and lawful Assembly of the said Church, shall be holden as setting forth the true constitution of the said Church, and that the said Claim, along with the laws of the Church now subsisting, shall in nowise be affected by whatsoever acts and proceedings of any Assembly constituted under the conditions now declared to be the law, and in submission to the coercion now imposed on the Establishment.

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*Historical Documents.*

And, finally, while firmly asserting the right and duty of the civil magistrate to maintain and support an establishment of religion in accordance with God's word, and reserving to ourselves and our successors to strive by all lawful means, as opportunity shall in God's good providence be offered, to secure the performance of this duty agreeably to the Scriptures, and in implement of the statutes of the kingdom of Scotland, and the obligations of the Treaty of Union as understood by us and our ancestors, but acknowledging that we do not hold ourselves at liberty to retain the benefits of the Establishment, while we cannot comply with the conditions now to be deemed thereto attached—we PROTEST, that in the circumstances in which we are placed, it is and shall be lawful for us, and such other commissioners chosen to the Assembly appointed to have been this day holden, as may concur with us, to withdraw to a separate place of meeting, for the purpose of taking steps for ourselves and all who adhere to us—maintaining with us the Confession of Faith and standards of the Church of Scotland, as heretofore understood—for separating in an orderly way from the Establishment; and thereupon adopting such measures as may be competent to us, in humble dependence on God's grace and the aid of the Holy Spirit, for the advancement of His glory, the extension of the gospel of our Lord and Saviour, and the administration of the affairs of Christ's house, according to His holy word; and we do now, for the purpose foresaid, withdraw accordingly, humbly and solemnly acknowledging the hand of the Lord in the things which have come upon us, because of our manifold sins, and the sins of this Church and nation; but, at the same time, with an assured conviction, that we are not responsible for any consequences that may follow from this our enforced separation from an Establishment which we loved and prized—through interference with conscience, the dishonour done to Christ's crown, and the rejection of his sole and supreme authority as King in His Church.

## APPENDIX I. 3.

*Historical Documents.*

Union with R.P. Church.

3. *Union with Reformed Presbyterian Church.*

## ACT II. 1876.—ANENT UNION WITH THE REFORMED PRESBYTERIAN CHURCH.

Whereas the General Assembly of 1874, in accordance with Overtures from five Presbyteries, authorised its Commission to receive and entertain any communication from the Reformed Presbyterian Church: and whereas communication was received from a Committee of the Synod of that Church by the Commission at its meeting in November, requesting them to appoint a Committee for conference anent Union: whereas the Commission appointed such a Committee, and that Committee has laid a Report upon the table which is satisfactory on the question of the views expressed by the Committee of the Synod of the Reformed Presbyterian Church, so far as the question of Union with this Church is concerned: and whereas an Extract Minute from the proceedings of a recent meeting of that Synod has also been laid upon the table, which proves that it has taken action in accordance with the views of its Committee, by transmitting an Overture to its Presbyteries and Sessions, and by other needful steps: whereas, further, it appears that the Synod are willing to accept, without reserve, the existing formula of the Free Church of Scotland, on the understanding that the Act of Assembly, 27th August 1647, and the Preamble to the Act XII. of Assembly 1846 are held to be in force, as interpreting the said formula, and also to allow the name of the united Church to be the Free Church of Scotland, so as to involve no change by this Church in that respect.

Therefore the General Assembly, with consent of a majority of Presbyteries, hereby enact and ordain that an Incorporative Union may now be effected by the Assembly upon the terms above indicated, it being understood

that the United Church may be declared to consist of the Free Church of Scotland as existing previously to the Union, and of the Reformed Presbyterian Church as existing previously to the Union, under the common designation of the Free Church of Scotland simply; and that other secondary details may be adjusted in such manner as to the Assembly may seem meet, provided the adjustment may be consistent with the terms specified in the previous parts of this Act.

ACT III. 1876.—BRING THE ACT OF UNION OF THE FREE CHURCH OF SCOTLAND AND THE REFORMED PRESBYTERIAN CHURCH OF SCOTLAND.

Whereas the General Assembly of the Free Church of Scotland, on the 30th May 1874, upon Overtures from Presbyteries, declared the cordial satisfaction with which they would contemplate a scriptural union with the Reformed Presbyterian Church, and authorised their Commission, at any stated diet, to entertain any communication from the Reformed Presbyterian Church to that effect: And the Commission, on the 18th November, received a communication from a Committee on Union, appointed by the Reformed Presbyterian Synod, requesting the appointment of a Committee on the part of the Free Church, for conference with respect to Union; and such a Committee was appointed accordingly by the said Commission: and in the months of January and February of the year 1875, statements on the part of the Committees were exchanged, setting forth the principles and historical position of both Churches, and the terms on which Union was contemplated on either side, and especially on the part of the Reformed Presbyterian Church, with reference to the second Reformation and Revolution Settlement: And whereas upon the report of its Committee, the Reformed Presbyterian Synod, at its meeting in May 1875, resolved to transmit to Presbyteries and Sessions an Overture wherein, *inter alia*, the Synod, considering, “as the result of more recent conferences, there is the hope that the Free Church may be prepared for union with this Church as such, on terms which would leave its members free to retain and abide by the views and principles embodied in the statement” by its Committee above referred to, agreed to union with the Free Church, and appointed a Committee to take such steps as might be needful to accomplish the object of the Overture, with due regard to the regulations of the Church, and to all its interests, spiritual and temporal; and the General Assembly of the Free Church, at its meeting in May 1875, on the report of their Committee, adopted and transmitted to Presbyteries, in terms of the Barrier Act, an Overture, wherein, after reciting previous steps, and declaring that the report of the Committee was satisfactory on the question of the views expressed by the Committee of the Synod of the Reformed Presbyterian Church, so far as the question of Union with the Free Church is concerned; and also that it appeared that the Reformed Presbyterian Synod were willing to accept, without reserve, the existing Formula of the Free Church of Scotland, on the understanding that the Act of Assembly, August 27, 1647, and the Preamble to the Act XII. Assembly 1846 are held to be in force as interpreting the said Formula, and also to allow the name of the united Church to be the Free Church of Scotland, so as to involve no change by that Church in that respect:—“Therefore the General Assembly, with consent of a majority of Presbyteries, hereby enact and ordain that an incorporative union may now be effected by the Assembly, upon the terms above indicated, it being understood that the united Church may be declared to consist of the Free Church of Scotland, as existing previously to the Union, and of the Reformed Presbyterian Church, as existing previously to the Union, under the common designation of the Free Church of Scotland simply, and that other secondary details may be adjusted in such manner as to the

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Church.

Assembly may seem meet, provided the adjustment be consistent with the terms specified in the previous parts of this Act :” And whereas the Reformed Presbyterian Synod, at its meeting in March 1876, having found that the Overture sent down by them had received the approval of all the Presbyteries, and of all the Sessions reporting, with the exception of two, declared that the said Overture had become the Resolution of the Church in accordance with its law and practice, and empowered its Committee to take steps with a view to the adjustment of all remaining details ; and the General Assembly of the Free Church, at its present meeting, having found the Overture before mentioned to have been unanimously approved by the Presbyteries of the Church reporting, passed the same into a standing law ; and the General Assembly of the Free Church, and the Synod of the Reformed Presbyterian Church having severally passed the Acts necessary in order to prepare for the consummation of the designed Union, on the terms agreed upon, have severally resolved to meet together for that purpose, and are now met accordingly.

Now, THEREFORE, the said General Assembly and Synod thus met, first of all desire to express their devout thankfulness to the great Head of the Church for the spirit of love and concord which has prevailed during these negotiations for Union ; humbly acknowledge their entire dependence on the mercy of God for all the happy results which they hope for in connection with it ; and entreat the Divine blessing on the step now to be taken, and on all the Congregations and people under their charge ; and the General Assembly of the Free Church of Scotland and the Synod of the Reformed Presbyterian Church, empowered as aforesaid, do hereby, in terms and in pursuance of the deliverances of their respective Church Courts, ENACT and DECLARE that the two Churches do and shall henceforth constitute one united Church in all matters spiritual and ecclesiastical ; that the said Church shall include and consist of the Free Church of Scotland as existing previously to the union, and of the Reformed Presbyterian Church of Scotland as existing previously to the union ; that the name of the united Church shall be “ The Free Church of Scotland ;” and that its supreme Court shall be designated “ The General Assembly of the Free Church of Scotland ;” but reserving to the said Reformed Presbyterian Church of Scotland its separate name and existence in so far as regards the civil rights and property now belonging, or which may hereafter accrue or belong to it, or to any of its congregations, with full power to the Ministers and Elders of its congregations, and to the successors of such Ministers and Elders for the time being, to meet hereafter as the Courts of the Reformed Presbyterian Church of Scotland with the necessary officers as heretofore, but only in order to deal with the said civil rights and property now belonging, or which hereafter may accrue or belong to that Church as aforesaid, and with power to make all arrangements and do and perform all acts and deeds proper and necessary to preserve and protect said civil rights and property.

WM. H. GOOLD, *Moderator of Synod of the Reformed Presbyterian Church of Scotland.*

JOHN KAY, *Clerk to Synod of the Reformed Presbyterian Church of Scotland.*

THOS. M'LAUCHLAN, *Moderator of General Assembly of the Free Church of Scotland.*

H. WELLWOOD MONCREIFF, *Principal Clerk of General Assembly of Free Church.*

WILLIAM WILSON, *Principal Clerk of General Assembly of Free Church.*

G. MELDRUM, *Depute-Clerk of General Assembly of Free Church.*



ACT X. 1876.—ANENT PARTICULARS OF UNION BETWEEN THE FREE CHURCH APPENDIX I. 3.  
OF SCOTLAND AND THE REFORMED PRESBYTERIAN CHURCH OF SCOTLAND.

*Historical  
Documents.*

Union with R.P.  
Church.

(1.) *Before the Union.*

The Assembly approve of the Report of the Committee on Union, and in accordance with the Report, they specially sanction the recommendations with respect to the future support of the ministry in the Congregations of the Reformed Presbyterian Church, and with respect to their relation to the Aged and Infirm Ministers' Fund.

They also sanction the agreement between the Committees of both Churches as to the raising of the capital sum required to render equitable the admission of the Reformed Presbyterian ministers to the benefit of the Free Church Widows' and Orphans' Fund. The General Assembly remit to the Commission in August to take such steps as may be necessary to complete this arrangement.

The Assembly further sanction the agreement of the Foreign Missions Committee with respect to the New Hebrides Mission, and approve of its being remitted to the charge of that Committee by the united Assembly.

The Assembly hereby approve of and sanction the adoption by this Assembly and the Reformed Presbyterian Synod, when met together, of the terms of the Uniting Act recommended in the final Opinion of Counsel in answer to the Joint Memorial, as those terms are stated in the Appendix III. of the Report.

A communication having been received from the Clerk of the Reformed Presbyterian Synod, now sitting in Edinburgh, suggesting arrangements for the allocation of their congregations in particular Presbyteries, along with congregations of the existing Free Church, the Assembly approve of these arrangements, and sanction their adoption by the united Assembly.

In view of the resolutions now come to, the General Assembly, having passed an Overture for Union with the Reformed Presbyterian Church into a standing law, do now, in terms of that Overture, proceed to constitute that Union in due form by means of a joint meeting of Assembly with the Reformed Presbyterian Synod, and hereby instruct the Principal Clerks to proceed to the place where that Synod is now meeting, and to intimate that the Assembly are ready to hold the joint meeting in this Hall, if that shall be agreeable to the Synod.

(2.) *At and after the Union.*

The Synod of the Reformed Presbyterian Church having entered the Assembly, and taken their places, it was moved by the Convener of the Free Church Committee on Union, and seconded by the Convener of the Reformed Presbyterian Church Committee on Union, and unanimously agreed to.

*[Here followed the Act of Union, No. 3 of Class I.]*

The Act of Union was signed by the Moderators and Clerks of the Free Church Assembly and of the Reformed Presbyterian Synod.

The Roll of Members of the Synod of the Reformed Presbyterian Church was given in by the Clerk of Synod, as follows :—

*Presbytery of Glasgow.*

<i>Ministers.</i>	<i>Elders.</i>	<i>Congregations.</i>
Rev. Wm. Symington, D.D.	Thomas Binnie.	Glasgow, Gt. Hamilton Street.
„ David D. Ormond.	Daniel Ferguson.	Stirling.
„ John M'Dermid.	John M. Robertson.	Glasgow Southern Congregation, Cumberland St.

## APPENDIX I. 3.

*Presbytery of Glasgow—continued.*

<i>Historical Documents.</i>	<i>Ministers.</i>	<i>Elders.</i>	<i>Congregations.</i>
Union with R.P. Church.	Rev. David Taylor.	John Taylor.	Glasgow, Dover St.
	" John Torrance.	James Daly.	" St. George's Road.
	" John Edgar, A.M.	James Caldwell.	Glasgow, Barrow-field.
	" John Kay.	Ebenezer Allison.	Coatbridge.
	" Thomas W. Patrick.	William Scott.	Rutherglen.
		And. Symington (Glasgow).	Airdrie.

*Presbytery of Kilmarnock.*

Rev. Alexander Davidson.	James Knox.	Kilbirnie.
" M. G. Easton, D.D.	John Mair.	Darvel.
" William Clow.	Alexander Douglas.	Kilmarnock.
" Thomas H. Lang.	Thos. Rowatt (Edinburgh).	Ayr.
" Matthew Hutchison.	John Towert (Edinburgh).	New Cumnock.
" John Jackson.	William Strang (Glasgow).	Girvan.

*United Presbyteries of Newton-Stewart and Dumfries.*

Rev. Walter R. Paton.		Whithorn.
" James Goold.	John M'Keand.	Newton-Stewart.
" Thomas Easton.	Robert M'Meekin.	Stranraer.
" Matthew Brown.	Gavin Barbour.	Hightae.
" William Milroy.	William Ferguson.	Penpont.
" James Morrison.	Robert Berry (Edinburgh).	Eskdalemuir.
" Robert M'Kenna, A.M.	James Scott.	Dumfries.
" George Lawrie.	George M'Kie.	Castle-Douglas.
" James Bowie.	Matthew Fairley (Glasg.)	Dunscore.

*Presbytery of Edinburgh.*

Rev. Thomas Martin. }	James Kennedy.	Strathmiglo.
" Nathan Cosh. }		
" Wm. H. Goold, D.D.	Alexander M. Milroy.	Edinburgh.
" Robert Naismith.		Chirnside.
" John Wylie.	John Baillie.	Dundee.
" J. Hunter, A.M., B.D.	Archibald Lang.	Lauriston.
" Thomas Ramage.	James Gray.	Douglas-Water.

*Presbytery of Paisley.*

Rev. Alexander Baird.	James Semple.	Port-Glasgow.
" Andrew Symington.	Thomas Scott.	Greenock.
" Charles N. M'Caig. }	Thomas Coulter.	Lochgilphead.
" James M. Fulton. }		
" George Clazy.	John M. Symington.	Paisley.
" George Davidson.	Alexander Davy.	Renton.
" John H. Thomson.	Robert Howie.	Eaglesham.
		Lorn.

The General Assembly unanimously adopt the Rev. Dr. Thomas M'Lauchlan as their Moderator, and confirm the appointments of the existing clerks and officers of the Free Church Assembly.

At this point the Assembly engaged in devotional exercises, Dr. Moody Stuart leading them in prayer.

Thereafter the Moderator addressed the late Moderator and members of

the Reformed Presbyterian Synod and congratulated the whole Assembly on the Union now accomplished. APPENDIX I. 3.

The late Moderator of the Reformed Presbyterian Synod made a suitable reply.

The Minutes of the Free Church Assembly and of the Reformed Presbyterian Synod adopted this day, in relation to the Union previously to its accomplishment, were read and approved of, in their bearing upon the course to be followed by the united Assembly. The General Assembly instruct the Committee on the Sustentation Fund, and the Committee on Foreign Missions, to act in accordance with those minutes.

The General Assembly hereby express their satisfaction that the members of the Reformed Presbyterian Church, as formerly existing, have already seen their way to the raising of the sum necessary towards the admission of its ministers to the benefit of the Widows' and Orphans' Fund upon an equitable footing, and hereby adopt the minute already agreed to by the Free Church Assembly this day before the Union, to remit to the Commission in August to take the necessary steps for completing the arrangement.

The General Assembly appoint the following to be the arrangement of Congregations of the Reformed Presbyterian Church in Presbyteries in the united Church, namely :—

*Presbyteries of Reformed*

*Presbyterian Church. Congregations.*

		<i>Presbyteries of Free Church.</i>	
EDINBURGH, . .	Chirnside, . . . . .	Dunse and Chirnside.	
	Douglas, . . . . .	Lanark.	
	Dundee, . . . . .	Dundee.	
	Edinburgh, . . . . .	Edinburgh.	
	Lauriston, . . . . .	Lindlithgow.	
	Strathmiglo, . . . . .	Cupar.	
	Wick, . . . . .	Caithness.	
GLASGOW, . .	Airdrie, . . . . .	Hamilton.	
	Coalbridge, . . . . .	Do.	
	Glasgow, Great Hamilton Street,	Glasgow.	
	Dover Street, . . . . .	Do.	
	Cumberland Street, . . . . .	Do.	
	St. George's Road, . . . . .	Do.	
	Barrowfield, . . . . .	Do.	
	Rutherglen, . . . . .	Do.	
KILMARNOCK, .	Stirling, . . . . .	Stirling.	
	Ayr, . . . . .	Ayr.	
	Darvel, . . . . .	Irvine.	
	Girvan, . . . . .	Ayr.	
	Kilbirnie, . . . . .	Irvine.	
	Kilmarnock, . . . . .	Do.	
DUMFRIES AND NEWTON-STEWART—	New Cumnock, . . . . .	Ayr.	
	Castle-Douglas, . . . . .	Kirkcudbright.	
	Dumfries, . . . . .	Dumfries.	
	Dunscore, . . . . .	Do.	
	Eskdalemuir, . . . . .	Lockerbie.	
	Hightae, . . . . .	Dumfries.	
	Newton-Stewart, . . . . .	Wigton.	
	Penpont, . . . . .	Penpont.	
	Stranraer, . . . . .	Stranraer.	
	Whithorn, . . . . .	Wigton.	

*Historical Documents.*

Union with R. P. Church.

APPENDIX I. 3. *Presbyteries of Reformed*

<i>Historical Documents.</i>	<i>Presbyterian Church.</i>	<i>Congregations.</i>	<i>Presbyteries of Free Church.</i>
	PAISLEY, . . .	Eaglesham, . . . . .	Glasgow.
		Greenock, West Shaw Street, .	Greenock.
		Lochgilphead, . . . . .	Dunoon and Inverary
		Lorn, . . . . .	Lorn.
		Paisley, . . . . .	Paisley.
		Port-Glasgow, . . . . .	Greenock.
		Renton, . . . . .	Dumbarton.

The Assembly appoint that, in all other respects, the arrangement of Congregations in relation to Presbyteries and Synods shall be the same as they were in the Free Church previously to the Union.

The Assembly declare that ordained ministers of the Reformed Presbyterian Church not at present in settled charges, and probationers of the Reformed Presbyterian Church, shall hold the same status in the united Church as they now hold in the Reformed Presbyterian Church.

The Assembly resolve, that the existing law and ecclesiastical rules of the Free Church shall be acknowledged as valid in the united Church.

The General Assembly remit to the Committee for naming Committees, to consult with the Moderator and Clerk of the late Reformed Presbyterian Synod, with a view to the adequate representation of that Synod in the Committees of the Church.

The General Assembly instruct Presbyteries in localities where Reformed Presbyterian Ministers and Congregations are to be received, to take steps for giving due publicity to their proceedings when the Reformed Presbyterian Ministers take their seats in the respective Presbyteries of the Free Church. The Assembly appoint their Moderator and Dr. Gould to issue a circular letter to Ministers, calling their attention to the Union now consummated, with a view to their bringing it under the notice of their flocks, and they recommend all Ministers to embrace the opportunity of interesting the young in the past religious history of Scotland, with special reference to present duty.

## APPENDIX II.

APPENDIX II. 1.

## ELECTION AND ADMISSION OF OFFICE-BEARERS.

*Office-bearers.*

## 1. General.

## ACT XIV. 1846.—DECLARATORY ACT ANENT ELECTION OF OFFICE-BEARERS.

The General Assembly declare, that it is not necessary or expedient at present to frame a minute and detailed directory for regulating the election of Office-bearers; that the Church should be satisfied with a recognition of general principles, and the adoption of one or two general rules; and that reliance should be placed, in the meantime, upon the spirit which seems generally to actuate both the judicatories and congregations of the Church, for avoiding the necessity of judicially determining some points on which a diversity of opinion might exist, and yet securing general harmony in the appointment of Office-bearers, and the peace and welfare of congregations.

The Assembly declare that the principle has been already recognised, and should be fully and fairly acted on, that "it appertaineth to the people, and to every several congregation," that is, to the members of the congregation in full communion with the Church, "to elect their minister;" and they further declare, that it is a principle of Presbyterian Church Government, that the whole proceedings of a congregation connected with the appointment of a minister should be conducted under Presbyterian superintendence, and that, while this principle requires that the actual election and call of a minister by the congregation should take place in the presence and under the moderation of the Presbytery, or a Committee of that body, it likewise implies that no public meeting of a congregation should be held to take any steps connected with the choice of a minister, unless some member of Presbytery be present to preside at it.

It is also declared, that Presbyteries, on whom devolves the duty of supplying the pulpit during the vacancy, ought to use their endeavour to secure to vacant congregations an opportunity of hearing such probationers as they may wish to hear; and the provision with regard to this in the Directory of 1649 should, as far as possible, be acted on. That provision is, "When any place of the ministry in a congregation is vacant, it is incumbent to the Presbytery, with all diligence, to send one of their number to preach to that congregation, who in his doctrine is to represent to them the necessity of providing the place with a qualified pastor, and to exhort them to fervent prayer and supplication to the Lord, that He would send them a pastor according to His own heart: As also he is to signify that the Presbytery, out of their care of that flock, will send unto them preachers whom they may hear; and if they have a desire to hear any other, they will endeavour to procure them an hearing of that person or persons, upon the suit of the elders to the Presbytery."

The General Assembly are of opinion, that the present circumstances and necessities of the Church greatly confirm the propriety of what is in itself a good rule, and well fitted to promote the peace and edification of congrega-

## APPENDIX II. 1.

*Office-bearers.*

tions, viz. that, in general, a Presbytery should not proceed to moderate in a call until they have ground to believe that the congregation are, on the whole, very much of one mind as to the person whom they mean to choose. There is satisfactory evidence that this was the plan usually followed by the Church under the Revolution Settlement, as well as in earlier times. But this system can be expected to succeed, and to work well, only if the Church Courts act fairly upon the great principle, that "it appertaineth to the people, and to every several congregation to elect their ministers," and, in the execution of the functions which undoubtedly belong to them, such as supplying the vacant pulpit, and moderating in a call, show a reasonable regard to the inclinations and convenience of congregations: and if congregations, on the other hand, are influenced in all the steps they take in regard to the choice of a minister, by a deep sense of the solemnity and importance of the duty they are called upon to discharge, by the habitual recollection that it is from Christ alone they can get duly qualified and useful pastors, and by a sincere determination that all things shall be "done decently and in order," and that the utmost care shall be taken to avoid caballing, party spirit, and division. If congregations would proceed, in all the steps connected with the choice of a minister, under the influence of these convictions and resolutions, the Assembly confidently hope that elections would, in general, be harmonious, if not unanimous; that there would be no occasion for a formal vote, and that not only would useful and acceptable pastors be chosen, but that the members of congregations, instead of being alienated from each other by divisions and contentions, and all the evils of unholy partisanship, would, by their meetings together for prayer and consultation in regard to the choice of a pastor, be more closely united in the bonds of Christian affection.

With the foregoing statement of principles and general rules, the Assembly would express their earnest hope that these may be acted on by all parties, in such a spirit as not only to render a directory unnecessary, but to promote the general peace of the Church, and the best interests of congregations.

It is finally declared, that the election of Elders and Deacons should be conducted upon the same general principles as the election of Ministers, subject to such modifications as the nature of the case, and the practice and circumstances of the congregation, may suggest.

The General Assembly appoint this Act to be read from the pulpit, on every occasion of the intimation of a vacancy in the pastoral charge.

*Questions and Formula for Ministers and Elders.*

## ACT XII. 1846.—AS AMENDED BY SUBSEQUENT ACTS.

Questions and  
Formula.Act XII. 1846.  
(Act I. 1884.)

Whereas it has become necessary, in consequence of the late change in the outward condition of the Church, to amend the Questions and Formula to be used at the licensing of Probationers, and the ordination of Elders, and Ministers respectively, the General Assembly, with consent of a majority of Presbyteries, enact and ordain, that the following shall be the questions so to be used: And, considering that the Formula, to this Act subjoined, embodies the substance of the answers to the said questions, the Assembly appoint the same to be subscribed by all Probationers of the Church before receiving license to preach the gospel, and by all Office-bearers at the time of their admission: And the General Assembly, in passing this Act, think it right to declare, that, while the Church firmly maintains the same scriptural principles as to the duties of nations and their rulers in reference to true religion and the Church of Christ, for which she has hitherto contended, she disclaims intolerant or persecuting principles, and does not regard her Confession of Faith, or any portion thereof, when fairly interpreted, as favouring



intolerance or persecution, or consider that her office-bearers, by subscribing APPENDIX II. 1.  
it, profess any principles inconsistent with liberty of conscience and the right  
of private judgment.

### I.—ELDERS.

*Office-bearers.*

#### *Questions to be put before Ordination.*

1. Do you believe the Scriptures of the Old and New Testament to be the Word of God, and the only rule of faith and manners?

2. Do you sincerely own and declare the Confession of Faith, approved by former General Assemblies of this Church, to be the confession of your faith; and do you own the doctrine therein contained to be the true doctrine, which you will constantly adhere to?

3. Do you own and acknowledge the Presbyterian Church Government of this Church, by Kirk Sessions, Presbyteries, Provincial Synods, and General Assemblies, to be the only government of this Church; and do you engage to submit thereto, concur therewith, and not to endeavour, directly or indirectly, the prejudice or subversion thereof?

4. Do you believe that the Lord Jesus Christ, as King and Head of the Church, has therein appointed a government in the hands of Church-officers, distinct from, and not subordinate in its own province to, civil government, and that the Civil Magistrate does not possess jurisdiction or authoritative control over the regulation of the affairs of Christ's Church; and do you approve of the general principles embodied in the Claim, Declaration, and Protest, adopted by the General Assembly of the Church of Scotland in 1842, and in the Protest of Ministers and Elders, Commissioners from Presbyteries to the General Assembly, read in presence of the Royal Commissioner on 18th May 1843, as declaring the views which are sanctioned by the Word of God, and the standards of this Church, with respect to the spirituality and freedom of the Church of Christ, and her subjection to him as her only Head and to His word as her only standard?

5. Do you promise to observe uniformity of worship and of the administration of all public ordinances within this Church, as the same are at present performed and allowed?

6. Do you accept the office of an Elder of this Congregation, and promise, through grace, faithfully, diligently, and cheerfully, to discharge all the duties thereof?

### II. PROBATIONERS.

#### *Questions to be put to Probationers before they are Licensed to preach the Gospel.*

1. Do you believe the Scriptures of the Old and New Testaments to be the Word of God, and the only rule of faith and manners?

2. Do you sincerely own and believe the whole doctrine of the Confession of Faith, approved by the General Assemblies of this Church, to be the truths of God, contained in the Scriptures of the Old and New Testaments; and do you own the whole doctrine therein contained as the confession of your faith?

3. Do you sincerely own the purity of worship presently authorized and practised in this Church, and also own the Presbyterian government and discipline; and are you persuaded that the said doctrine, worship, and discipline, and Church government, are founded upon the Holy Scriptures, and agreeable thereto?

4. Do you believe that the Lord Jesus Christ, as King and Head of the Church, has therein appointed a government in the hands of Church-officers, distinct from, and not subordinate in its own province to, civil government, and that the Civil Magistrate does not possess jurisdiction or authoritative control over the regulation of the affairs of Christ's Church; and do you

APPENDIX II. 1. approve of the general principles embodied in the Claim, Declaration, and Protest, adopted by the General Assembly of the Church of Scotland in 1842, and in the Protest of Ministers and Elders, Commissioners from Presbyteries to the General Assembly, read in presence of the Royal Commissioner on 18th May 1843, as declaring the views which are sanctioned by the Word of God, and the standards of this Church, with respect to the spirituality and freedom of the Church of Christ, and her subjection to Him as her only Head, and to His word as her only standard?

Office-bearers.

5. Do you promise that, through the grace of God, you will firmly and constantly adhere to, and in your station, to the utmost of your power, assert, maintain, and defend, the said doctrine, worship, and discipline, and the government of this Church by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies?

6. Do you promise that in your practice you will conform yourself to the said worship, and submit yourself to the said discipline and government of this Church, and not endeavour, directly or indirectly, the prejudice or subversion of the same?

7. Do you promise that you shall follow no divisive courses from the doctrine, worship, discipline, and government of this Church?

8. Do you renounce all doctrines, tenets, or opinions whatsoever, contrary to, or inconsistent with, the said doctrine, worship, discipline, and government of this Church?

(Act II, 1874.)

9. Do you promise that you shall subject yourself to the several judicatories of this Church?

### III.—PROBATIONERS AFTER BEING CALLED BY A CONGREGATION.

*Questions to be put to Probationers before Ordination (and also to a Minister already ordained, at his admission to a Pastoral Charge).*

1. Do you believe the Scriptures of the Old and New Testaments to be the Word of God, and the only rule of faith and manners?

2. Do you sincerely own and believe the whole doctrine contained in the Confession of Faith, approved by former General Assemblies of this Church, to be founded upon the Word of God; and do you acknowledge the same as the confession of your faith; and will you firmly and constantly adhere thereto, and to the utmost of your power assert, maintain, and defend the same, and the purity of worship as presently practised in this Church?

3. Do you disown all Popish, Arian, Socinian, Arminian, Erastian, and other doctrines, tenets, and opinions whatsoever, contrary to, and inconsistent with, the foresaid Confession of Faith?

4. Are you persuaded that the Presbyterian government and discipline of this Church are founded upon the Word of God, and agreeable thereto; and do you promise to submit to the said government and discipline, and to concur with the same, and not to endeavour, directly or indirectly, the prejudice or subversion thereof, but to the utmost of your power, in your station, to maintain, support, and defend the said discipline and Presbyterian government by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies?

5. Do you believe that the Lord Jesus Christ, as King and Head of the Church, has therein appointed a government in the hands of Church-officers, distinct from, and not subordinate in its own province to, civil government, and that the Civil Magistrate does not possess jurisdiction or authoritative control over the regulation of the affairs of Christ's Church; and do you approve of the general principles embodied in the Claim, Declaration, and Protest, adopted by the General Assembly of the Church of Scotland in 1842, and in the Protest of Ministers and Elders, Commissioners from Presbyteries

to the General Assembly, read in presence of the Royal Commissioner on 18th May 1843, as declaring the views which are sanctioned by the Word of God, and the standards of this Church, with respect to the spirituality and freedom of the Church of Christ, and her subjection to Him as her only Head and to his Word as her only standard?

6. Do you promise to submit yourself willingly and humbly, in the spirit of meekness, unto the admonitions of the brethren of this Presbytery, and to be subject to them, and all other Presbyteries and superior judicatories of this Church, where God in his providence shall cast your lot; and that, according to your power, you shall maintain the unity and peace of this Church against error and schism, notwithstanding of whatsoever trouble or persecution may arise, and that you shall follow no divisive courses from the doctrine, worship, discipline, and government of this Church?

7. Are not zeal for the honour of God, love to Jesus Christ, and desire of saving souls, your great motives and chief inducements to enter into the function of the holy ministry, and not worldly designs and interests?

8. Have you used any undue methods, either by yourself or others, in procuring this call?

9. Do you engage, in the strength and grace of Jesus Christ, our Lord and Master, to rule well your own family, to live a holy and circumspect life, and faithfully, diligently, and cheerfully to discharge all the parts of the ministerial work, to the edification of the body of Christ?

10. Do you accept of and close with the call to be pastor of this congregation, and promise, through grace, to perform all the duties of a faithful minister of the gospel among this people?

#### IV. FORMULA.

*(To be subscribed by Probationers before receiving license, and by all Ministers and Elders at the time of their admission.)*

I, \_\_\_\_\_ do hereby declare, that I do sincerely own and believe the whole doctrine contained in the Confession of Faith, approved by former General Assemblies of this Church to be the truths of God; and I do own the same as the confession of my faith; as likewise I do own the purity of worship presently authorized and practised in the Free Church of Scotland, and also the Presbyterian government and discipline thereof; which doctrine, worship, and Church government, I am persuaded, are founded on the Word of God, and agreeable thereto: I also approve of the general principles respecting the jurisdiction of the Church, and her subjection to Christ as her only Head, which are contained in the Claim of Right and in the Protest referred to in the questions already put to me; and I promise that, through the grace of God, I shall firmly and constantly adhere to the same, and to the utmost of my power shall, in my station, assert, maintain, and defend the said doctrine, worship, discipline, and government of this Church, by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies, together with the liberty and exclusive jurisdiction thereof; and that I shall, in my practice, conform myself to the said worship, and submit to the said discipline, government, and exclusive jurisdiction, and not endeavour, directly or indirectly, the prejudice or subversion of the same; and I promise that I shall follow no divisive course from the doctrine, worship, discipline, government, and exclusive jurisdiction of this Church, renouncing all doctrines, tenets, and opinions whatsoever, contrary to, or inconsistent with, the said doctrine, worship, discipline, government, or jurisdiction of the same.

## APPENDIX II. 1.

*Questions and Formula for Deacons.*

## ACT I. 1884.—ACT ANENT THE SUBSCRIPTION OF FORMULA BY DEACONS.

*Office-bearers.*

The General Assembly, with consent of a majority of Presbyteries, hereby declare and enact that the following Questions and Formula shall be used hereafter at the ordination of Deacons:—

*Questions and Formula for Deacons.*I. *Questions to be put before Ordination.*

1. Do you believe the Scriptures of the Old and New Testaments to be the Word of God, and the only rule of faith and manners?

2. Do you sincerely own and receive, as in accordance with Holy Scripture, the system of Evangelical Truth taught in this Church, and set forth in the Westminster Shorter Catechism?

3. Do you approve of the Presbyterian government and discipline of this Church; and are you persuaded that the Civil Magistrate has no jurisdiction or authoritative control over the regulation of the affairs of Christ's Church?

4. Do you accept of your call to the office of Deacon in this Congregation, and promise, through grace, faithfully, diligently, and cheerfully, to discharge all the duties thereof?

II. *Formula to be subscribed by Deacons at the time of their Admission.*

I, \_\_\_\_\_ hereby declare that I sincerely own and receive, as in accordance with Holy Scripture, the system of Evangelical Truth taught in this Church, and set forth in the Shorter Catechism. I approve of the Presbyterian government and discipline of the Church. I am persuaded that the Civil Magistrate has no jurisdiction or authoritative control over the regulation of the affairs of Christ's Church; and I promise, through grace, to perform all the duties of the Deaconship faithfully and cheerfully.

With consent of a majority of Presbyteries, the Assembly also hereby repeal the Act of Assembly XII., 1846, in so far as relates to the questions appointed to be put before the Ordination of Deacons, and the Formula they are required to sign.

## ACT II. 1874.—ANENT SIGNING OF THE FORMULA.

*Signing of the Formula.*

The General Assembly, with consent of Presbyteries, enact and ordain, That in every case of induction into any spiritual office or function in this Church, the person to be inducted shall sign the Formula prescribed in Act XII. 1846, intituled, *Act anent Questions and Formula*, during public worship on the day of induction, immediately after giving satisfactory answers to the questions appointed in said Act to be put to him; and that in every case of a minister being proposed to be called who belongs to another branch of the Church of Christ, if the Presbytery find the call regular and sufficient so far as the Congregation is concerned, they shall adjourn to meet on a subsequent day not sooner than a fortnight, nor later than four weeks thereafter, except when the call is to a minister in the Colonies, in which case the adjournment may be prolonged; and shall transmit to the minister proposed to be called an extract of that finding, together with a copy of the said Act XII. 1846, as hereinafter amended, including the preamble as well as the enacting part, as also a copy of the present finding of the Assembly in full, embracing the Act of Assembly, Class I. 4, of date Thursday, 29th May 1873, passing the Mutual Eligibility Overture into a law, with relative declaration in full, and also a copy of this Act, informing him that if no communication is sent beyond a simple acknowledgment of their receipt, the Presbytery will then, upon the assump-

tion that no difficulty exists on his part as regards the said documents, proceed in the case according to the laws of the Church. And at the diet for the induction of any minister thus called, the Presbytery shall, before the induction service, record the fact that the provisions of this Act have been duly complied with. APPENDIX II. 1.  
Office-bearers.

The Assembly also, with consent aforesaid, rescind the last clause of section 9 in the second head of the said Act XII. 1846, as being superseded by the provisions now enacted, anent the time and manner of signing the Formula.

APPENDIX II.  
2.

## 2. Elders and Deacons.

ACT X. 1864.—DECLARATORY ACT ANENT ELECTION OF ELDERS AND DEACONS. Elders and Deacons

The General Assembly hereby declare, that the Act XIV., Assembly 1846, is now the Law of the Church on the subject of the election of Elders and Deacons, and supersedes all previous legislation that is inconsistent with its declarations and provisions.

### ACT X. 1842.—ACT ANENT THE ELECTION OF ELDERS.\*

1. That when a kirk-session shall have resolved upon an addition to the number of elders in the same, the minister shall publicly intimate from the pulpit, after divine service on Lord's Day, that an appointment of additional elders has been resolved upon, and shall also intimate the number which is to be added; and he shall certify the whole male communicants of the congregation, that, on the third Lord's Day thereafter, they shall give in lists of such members of the congregation, being communicants and of full age, as they would choose for the office of eldership, the number of names in each list being required to be as near as may be one-half more than the number of elders proposed, as, for instance, six when four elders are to be appointed; the session being at liberty, if they see fit, to suggest the names of such persons as they may deem meet for the office, for the consideration of the communicants; and the minister shall repeat the intimation on the two following Lord's Days, giving such exhortation as he shall deem necessary. Election of Elders.

2. That on the Lord's Day fixed for giving in the lists aforesaid, the said male communicants shall respectively give to the elder or elders of the congregation appointed to receive them their said lists, which shall be signed by the parties lodging them, and shall have been sealed up by them before being given in.

3. That if the number of elders proposed to be appointed be not an even number, that to be contained in the list shall be equal to it and one half of the next immediate larger number, as, for instance, if the elders proposed to be appointed shall be five, the names to be given in shall be eight in each list.

4. That on the following Monday, the session shall meet in the Church with open doors, so that all members of the congregation who choose to attend may be present, and shall then and there open the sealed lists, and the names in each list shall be read aloud and recorded, with the number of votes given for each, and those having most votes, to the number required to be contained in the lists, shall be taken as the parties chosen, from among whom the elders are to be appointed.

5. That the session shall thereupon select, from among the parties chosen as aforesaid, the number resolved to be added to the session; being, however, always entitled, according to the laws of the Church, to judge of the qualifications and fitness for the office of the parties so chosen, and to reject such as they shall judge to be unqualified; and being also entitled, if they shall see cause, in the particular circumstances of any special case, to appoint to be elders the whole of the parties so chosen.

6. That when the parties so chosen and appointed shall have declared their willingness to accept the office of elder, their edict shall be served, and the other steps followed out towards their ordination, agreeably to the forms now in use, and according to the laws of the Church.

7. That in parishes which, by the intervention of lochs, ridges of hills, or the like, are separated into totally distinct districts; or when, from other circumstances, a division is considered necessary and proper, the session may, with consent and authority of the Presbytery, divide the parish into districts, and require a certain number of elders to be appointed for each district: and the choosing of the elders of each district shall be by the male communicants residing in each district respectively, in the same manner as is herein before provided, as to parishes.

\* As to this Act see Act X., 1864, above.



## APPENDIX II. 2.

*Qualification and Age.*

*Elders and  
Deacons.*  
Act IX. 1722.

The General Assembly do earnestly beseech, exhort, and require Elders and Deacons to be faithful in the discharge of their respective offices, tender and circumspect in their walk, and punctual in their attending upon ordinances, and strict in their observance of the Lord's Day, and in regularly keeping up the worship of God in their families; and the General Assembly appoints the Judicatories of the Church to take good heed, that none be admitted to, or continued in these offices, but such as are found qualified, and do behave themselves as above required.

Act X. 1816.

Hereafter no person shall be set apart to the office of an Elder, unless he hath attained the age of twenty-one years complete . . . and unless he is a Communicant.

*Elders and Kirk-Sessions at Preaching Stations.*

ACT XIII. 1863.—DECLARATORY ACT ANENT PREACHING STATIONS, KIRK-SESSIONS THEREIN, AND POSITION OF ELDERS IN SUCH KIRK-SESSIONS.

The General Assembly hereby declare that,—

Preaching  
Stations, Kirk-  
Sessions therein,  
and Position of  
Elders in such  
Kirk-Sessions.

1. Preaching Stations are established under the authority of the Presbyteries of the bounds, and it remains with the same Presbyteries to arrange in regard to the appointment of Elders, and the establishment of Kirk-Sessions for local discipline and management in such stations, it being understood that a minister of the Presbytery shall act as the Moderator of every such Kirk-Session.

2. Such Kirk-Sessions cannot send representatives to Presbyteries until the Stations with which they are connected are erected into fully sanctioned charges, by the authority of the General Assembly.

3. Wherever the Presbytery deem it expedient, the Elders of such Stations may still be connected with regularly established Kirk-Sessions. They have the full status of Elders, and are eligible to sit in the General Assembly as representatives of Presbyteries; but in respect that such Stations have not yet a settled ministry, wherever such Elders are not connected with Kirk-Sessions established in fully sanctioned congregations, their certificates of being *bona fide* acting Elders must be given by the authority of the Presbytery of the bounds, in such manner as to the Presbytery may seem most expedient.

*Elders and Deacons ceasing to hold their Offices.*

MINUTE OF ASSEMBLY, 29th MAY 1806.

Elders ceasing to  
hold office.

The Assembly proceeded to consider the overture anent non-residing Elders. After reasoning, agreed without a vote to dismiss the overture as unnecessary, in respect that when a change of residence renders it impossible for an Elder to discharge the duties of a member of the kirk-session of that parish in which he formerly resided, it is competent for the kirk-session, and is in many parts of Scotland the usual practice, to find that if he does not, within the space of twelve months, return to reside, he can no longer continue one of their number, and to intimate to him by letter that they have come to this resolution.



MINUTE OF ASSEMBLY, 27th MAY 1850.

The General Assembly . . . . . declare that the appellants having withdrawn from the session of Free St. George's congregation, Paisley, for more than a year, have ceased to be, and no longer are, members of the Session or Deacons' Court of that congregation.

*Elders and Deacons.*

3. Ministers.

ACT IV. 1859.—ACT ANENT THE ELECTION AND CALLING OF MINISTERS.

*Ministers.*

The General Assembly, with consent of a majority of Presbyteries, enact and ordain—

*Election and Calling of Ministers.*

1. That when a vacancy has taken place in any Congregation, the Presbytery of the bounds shall, at its first meeting thereafter, appoint one of the ministers to preach in said Congregation, and to intimate the vacancy, and shall also appoint a minister to be interim Moderator of the Kirk-Session of the vacant Congregation, and to preside at all congregational meetings that may be held during the vacancy.

2. That on intimating the vacancy, unless special grounds exist for delaying to fill it up, the minister shall call a meeting of the Congregation on an early day.

3. That a form of exhortation previously prepared by the General Assembly shall be read at this meeting, setting forth the duties and responsibilities in the election of a minister pertaining to all the parties concerned, namely, to the Congregation, to the Presbytery, and the person or persons put in nomination.

4. That unless the Congregation are prepared at this meeting to elect a minister, they shall nominate certain of their number, who, along with the office-bearers, shall be a Committee, for looking out for a suitable person or persons to be heard by the congregation, or a suitable person to be recommended to them as their pastor.

5. That in the event of the Committee forming a list of candidates (which it is earnestly recommended shall not be a large one) to be heard by the congregation, they shall submit it to the Presbytery for their sanction, and in order that the time may be arranged by the Presbytery for the candidates being heard.

6. That when the candidates have been heard, once or oftener, as may be arranged, a congregational meeting shall be held on an early day for the purpose of choosing one to be their pastor; and if it shall appear that the congregation are not prepared at this stage to elect any of them, the Committee, or a new Committee to be then named, consisting, as before, of the office-bearers, and such members of the congregation as may be named for the purpose, shall prepare a list of additional candidates, when the same steps as before shall be taken.

7. That, when an election has taken place, the Presbytery shall proceed therein according to the laws of the Church, but when the circumstances are such that the Presbytery do not feel warranted to proceed immediately to moderate in a Call, they shall hold a meeting with the congregation, and shall not proceed to moderate in a Call till they have exhausted all means for producing harmony, and, should these means prove unsuccessful, they shall refer the matter to the Superior Church Courts for advice.

8. That when a division exists in the congregation, the Presbytery shall not sustain a Call unless it be subscribed by a majority of the whole members on the Communicants' Roll.

## APPENDIX II. 3.

*Ministers.*

9. That before any steps are taken in an election, the Kirk-Session shall have a roll of communicants made up and attested, as containing the only list of those entitled to vote in the election of a minister.<sup>1</sup>

## ACT XV. 1863.—ACT ANENT ADDRESS TO VACANT CONGREGATIONS.

Address to vacant  
Congregations.

The General Assembly called for Report of Committee appointed to prepare an Address to be read to Vacant Congregations, according to the Act of Assembly as to the Election of Ministers.

The Report was given in and read by Mr. Charles John Brown, the Convener, who addressed the Assembly thereanent.

The Assembly approve of the Report, adopt the following proposed Address, and appoint it to be printed along with the Acts of this Assembly, that it may be in the possession of all Presbyteries, to be used in every case of vacancy, viz. :—

BELOVED BRETHREN,—In your present solemn circumstances, as a Congregation about to choose a pastor, we feel constrained to address to you a few words of counsel and exhortation, earnestly praying that the Divine Head of the Church may own and bless the endeavour, towards promoting the harmonious settlement of a faithful and acceptable pastor among you.

We affectionately remind you first of all, that the ministry is an ordinance of the Lord Jesus Christ, which He has been pleased to bestow on His Church, and to continue with her, for her increase and edification, until all His people “come in the unity of the faith and of the knowledge of the Son of God, unto a perfect man, unto the measure of the stature of the fulness of Christ.” The giving of pastors and teachers to the Church as her permanent instructors and rulers is spoken of by the Apostle as a distinguishing prerogative of the exalted Saviour; so that each faithful minister must be regarded as sent by Jesus into the world to carry forward upon earth, under Him, the grand design for which He Himself was sent into the world by the Father. It is this which stamps the office of the ministry with its most peculiar sacredness and responsibility. This it is which makes the election of a pastor by a Christian congregation at once a precious privilege, whereof none may lawfully deprive them, and a weighty and responsible trust, which they have need to see that they do not sinfully neglect or abuse.

Enjoying then, as *you* do, this privilege, and having this trust reposed in you, it is required of you that you be found faithful to the Lord, as those who have one day to give an account of their stewardship in this matter to Him. Whatever means, accordingly, you may adopt, or whomsoever you may see fit to consult in regard to the selection of a pastor, we exhort and beseech you, under a profound sense of responsibility to the Lord, *to abound in prayer to Him for grace and guidance*, that you may be directed to a pastor according to His own heart, who shall feed you with knowledge and understanding, and long after you all in the bowels of Jesus Christ. We would that you felt the full weight of the responsibility which attaches to you in the choice of a minister; for the want of this on the part of any congregation

<sup>1</sup> The following alterations on this Act will be submitted to Assembly 1886, and probably sent down to Presbyteries for their approval :—

“That section 5 be deleted.

“That the following explanation be added to section 9 :—‘*Before any steps are taken in an Election*’ shall be held to mean : ‘before the meeting of the Congregation appointed to be held by section 2’; and ‘*attested*’ shall be held to mean ‘attested by the Kirk-Session.’

“That the following section be added : ‘The Roll of Communicants so made up and attested previously to the first congregational meeting at which a minister may be elected, shall, previously to any subsequent meeting for the election of a minister, be purged of all those who, in the meantime, have died, or have been disjoined from the Congregation by certificate; and it shall be in the power of the General Assembly, in the case of a protracted Vacancy, to order the making up of a new Roll of Communicants.’”

will lead to the restraining of prayer before God, and, in all probability, to the adoption of means for attaining the end, which the Head of the Church cannot regard with favour, nor crown with a blessing. "Them that honour me," it is written, "I will honour." It was in answer to the prayer of the devout Cornelius, that Peter was sent to acquaint him with the gospel message. It would seem to have partly been in answer to the pleadings of the devout company by the river-side in Macedonia, that the apostle of the Gentiles was sent to preach Christ for the first time on European ground. If you are to obtain that most desirable of blessings, a minister who will faithfully break the bread of life among you, you must persevere in pleading with the Lord in this behalf, assured that your pleading will not be in vain. Besides obtaining for you, at His hands, a pastor "who will take the oversight of the flock, not by constraint, but willingly; not for filthy lucre, but of a ready mind," and who will, like the Apostle, teach publicly, and from house to house, testifying to all repentance toward God, and faith toward our Lord Jesus Christ—such believing and united prayer will be attended with the most beneficial results—

APPENDIX II. 3.

Ministers.

1. In the way of engendering a right feeling among you, and leading you to see eye to eye, in the choice of a minister. For, while we have great reason to bless the Lord for the degree of harmony that has generally prevailed in cases of settlement during the last twenty years, we cannot hide from ourselves the fact that there have been instances also of very painful and unseemly strife and division in congregations. The Church, as such, knows nothing of, and will not concern herself with, parties in the calling of a minister. The congregation must agree among themselves in a matter which so nearly concerns them, and not come with their divisions to the Church Courts, to transfer them from their own shoulders to theirs. Not, of course, that the Courts of the Church are at all indifferent to the welfare of the congregations, or unwilling to take their fair share of responsibility in the adjustment of any differences that may arise. But this, after all, must rather be in the way of counselling the congregation to cultivate a brotherly spirit among themselves, than by any active interference, ordinarily at least, in their differences. We long to be instrumental, however, rather in preventing the rise of disputes in our congregations, than in healing them after they have arisen; and it is in the hope of promoting that spirit of unanimity, brotherly kindness, and mutual, loving forbearance, which is so becoming in the Church of Christ, that we thus exhort you to united prayer, convinced as we are that it is only through the outpouring upon you of the Spirit of all grace, in answer to prayer, that you are likely to join as with one heart and hand in the calling of a man to be over you in the Lord in holy things. Met with one accord to pray the Lord for a minister,—seeking of Him so precious a gift, alike in secret prayer, and in the prayers of the family and the church, we doubt not that you will feel yourselves so knit together in the bonds of the gospel of peace, that your hearts shall readily unite on the man whom, in these circumstances, you cannot but regard as sent by the Lord in answer to your prayers. Such is one of the beneficial results which may be expected to attend united prayer for a pastor. We only mention another:

2. It will prepare you to welcome the minister of your choice when he comes among you, as commissioned by the Lord with a message from Him to your souls. It will predispose you to wait on his ministry, in no captious and critical, but in a humble and teachable frame of mind, such as shall constrain him to feel that, like Cornelius of old, you are all present before God, to hear all things that are commanded him of God. And it will tend greatly to foster a spirit of habitual prayer among you, such as, above all things else, will strengthen the hands and gladden the heart of the pastor

APPENDIX II. 3. you have thus received from the Lord, and give both to him and you reason to hope for a copious shower of blessing, that shall make your congregation as a field which the Lord hath blessed. While your pastor watches for your souls as one that must give account, you, abounding in prayer for him, and bearing him much on your hearts before the Lord, will thus esteem him the more highly in love for his work's sake, and live in unbroken peace among yourselves.

Ministers.

Finally, and in one word, it were well to bear in solemn remembrance those times of which the apostle speaks, "when men will not endure sound doctrine; but, after their own lusts, shall heap to themselves teachers, having itching ears." Assuredly, in the days we live in, a loud call is addressed to every follower of Christ, whether he look to the interests of his own soul, or to those of the Church at large, to see well to it that, in the choice of a minister, he "try the spirits, whether they be of God," and long for such a pastor only, as, besides being manifestly devoted to the Lord, and to the winning of precious souls, will faithfully also and fearlessly maintain the time-honoured and scriptural principles and practices of our beloved Church, as set forth in our Standards—cordially attached to its doctrine, worship, government, and discipline, and so likely to prove himself, in the hand of the Lord, worthy of his calling in a Church, which has been signally honoured of him to contend for those crown rights of the Redeemer, which were so nobly vindicated by our martyred forefathers.

And now, dear brethren, we commend you to "Him who is able to keep you from falling, and to present you faultless before the presence of His glory with exceeding joy." And "unto the only wise God our Saviour, be glory and majesty, dominion and power, both now and ever. Amen."

#### MINUTE ANENT CONGREGATIONS IN WHICH OTHER THAN LOCAL PARTIES ARE INTERESTED, 2d June 1874.

Congregations in which other than Local Parties are interested.

The Assembly approve of the Report, and in accordance therewith the General Assembly enact as follows:—

1. That in the address to vacant Congregations, a paragraph shall be inserted, having reference to this special class of Congregations, for the purpose of reminding them that their circumstances are peculiar, and that they are solemnly bound to have respect in their choice of a minister, not only to their own tastes or interests, but also to those of the parties who worship along with them in large numbers at certain seasons of the year, and whose spiritual welfare is deeply involved in the appointment to be made.

2. That when Congregations of this class desire it, the Presbytery shall appoint a special Committee of their number to confer and co-operate with them for the purpose of securing, as far as possible, that the settlement shall be one suited to the circumstances of the locality.

3. That when either from representations made by the non-local parties, or from information otherwise obtained, the presbytery shall be of opinion that the proposed settlement is not such as will prove satisfactory to the non-local parties, and be fitted to promote their edification, they (the Presbytery) shall make friendly representations to that effect to the Congregations concerned, and in the event of these failing to have the desired influence in their proceedings, the Church shall, in all such cases, be understood to reserve the right of specially providing by its Home Mission Committee, or otherwise, whenever it shall see cause, for the spiritual wants of the said non-local parties.

The Assembly instruct the Committee on Congregations in which other than local parties are interested, to prepare the paragraph referred to in the above Act, and empower the Commission in August to sanction and issue it along with the address to vacant Congregations.

12th August 1874. APPENDIX II. 3.

The Commission received, approved, and adopted a paragraph to be inserted in the address to vacant Congregations in which other than local parties are interested, as prepared by the Committee on such Congregations, as instructed by last Assembly, as follows :—

Ministers.

“We cannot close this address without affectionately reminding you that this Congregation is one of a special class, and is thereby laid under no ordinary responsibility. While it is the duty of all Christians to look not only on their own things, but also on the things of others, circumstances are fitted to bring home this obligation to you with very peculiar weight and urgency. Your lot is cast in a locality which is resorted to by numbers of temporary residents, many of whom worship with you from Sabbath to Sabbath, and assist more or less in the maintenance of ordinances. Their highest interests are bound up with your own in the steps you are about to take for filling up the existing vacancy. Though all have essentially the same spiritual wants, and require essentially the same spiritual provision, there are great diversities of taste and attainment, arising from various causes ; and regard ought to be had to this fact in your choice of a minister. Our confident hope is, that as it is your obvious interest, it will be your prayerful endeavour, to act so as to satisfy and edify these parties to link them as closely as may be with the Congregation and all its Christian agencies, and thus to advance the Lord’s cause, not only within, but far beyond, your own borders.”

Minute of Commission.

#### FROM ACT IV. 1882.—ANENT PROCEDURE AT CALLING AND SETTLEMENT OF MINISTERS.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain, That instead of ten days’ *induciae*, as in times past, Presbyteries shall be allowed to meet for any purpose connected with the calling and settlement of ministers, after seven clear days have passed from the Sabbath on which intimation of such a meeting is made to a congregation.

Seven days’  
*induciae*.

#### ACT X. 1846.—ANENT THE MODERATING IN CALLS.

The General Assembly did and hereby do appoint, that no Presbytery shall moderate in a Call to a Probationer or Minister who is not qualified to accept it according to the laws of the Church.

Moderating  
in Calls.

#### ACT VII. 1868.—DECLARATORY ACT ANENT MODERATING IN CALLS.

The General Assembly hereby find and declare that Presbyteries shall always moderate in a call at large, except in cases of application for the moderation of a Call in which clear intimation is given of there being a thoroughly harmonious desire for the calling of a particular person named ; in which cases Presbyteries may, if they see cause, appoint the moderation of a call to that person only.

#### ACT III. 1879.—DECLARATORY ACT ANENT VOTING BY MANDATE.

Whereas doubts have arisen regarding the law and practice of this Church as to voting in the Election of Ministers and the Signing of Calls, the General Assembly declare and enact that, at any meeting of a Congregation for the election of a Minister, no vote shall be allowed or recorded, unless the vote is given *by a Member of the Congregation who is personally present* ; and that, when a Call at large is moderated in, it shall only be subscribed by those who personally adhibit their names ; but that when a Call is moderated



APPENDIX II. 3. in to an individual whose name is in the edict announcing the moderation, the Call may be subscribed on behalf of members not present when a Mandate authorising such subscription is produced.

Ministers.

*Translations.*

ACT VI. 1849.—ACT ANENT TRANSLATIONS.

Translations.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain as follows :—

I. In all cases of translation, the Minister, whom it is proposed to translate, shall be heard on the subject, by the Presbytery and the superior courts, at any stage of the proceedings when he shall express a wish to that effect.

II. Immediately after the parties in a case of translation have been heard at the bar of any Presbytery, the Minister whom it is proposed to translate shall be asked if he has any statement to make.

III. When parties have been heard, and an opportunity has been given to the Minister of declaring his views, the Presbytery shall consider and give judgment whether or not the translation sought for is expedient, and whether or not the call ought to be presented to their brother for his acceptance.

IV. When the Presbytery or the Court of Review has finally decided that the call should be put into the Minister's hands, and when the Minister has thereupon accepted the same, judgment shall be given by the said Presbytery or Court of Review, in the usual form, agreeing to the translation, and appointing the said Minister to await, in that matter, the orders of the Presbytery from within whose bounds the call has come.

ACT IV. 1882, § 2.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain that, in the procedure in Calls from one Presbytery to another, the Commissioners from the Presbytery and Congregation calling shall be received and heard only at one meeting of the Presbytery to which the Minister called belongs.

Further that, in the event of no ordinary meeting of a Presbytery being held within three weeks of the time when the Clerk receives official intimation that a Call to one of its members has been sustained by another Presbytery, he, along with the Moderator, shall be empowered to send intimation of the Call to the Minister's Congregation, and to summon them, and all parties, to the next ordinary meeting, that the Call may be disposed of then.

*Admission of Ministers from other Churches, etc.*

ACT VIII. 1850.—ACT ANENT THE ADMISSION OF MINISTERS AND PROBATIONERS FROM OTHER CHURCHES.

Admission of Ministers and Probationers from other Churches.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain as follows :—

I. No Minister or Probationer of another Denomination or Church shall be received to the standing of a Minister or Probationer of this Church, without an unqualified subscription of the Formula.

II. No Minister or Probationer of another Denomination or Church shall be received to the standing of a Minister or Probationer of this Church, without the authority of the General Assembly.

III. Every application to be received to the standing of a Minister or Probationer of this Church shall be made to the Presbytery within whose bounds the applicant has his ordinary residence.



IV. Every Presbytery, to which an application to be received as aforesaid shall be made, shall transmit to the General Assembly their answers to the following Queries, or, if the applicant is a Probationer, their answers to such of the queries as relate to a Probationer's case.

APPENDIX II. 3  
Ministers.

*Queries to be answered by Presbyteries in regard to Applicants from other Churches for admission to the standing of Ministers and Probationers of this Church.*

1. What is the applicant's age?
2. What are the particulars of the applicant's curriculum of study—
  - (1.) In Literature and Science?
  - (2.) In Theology?
3. By what Presbytery and at what date was the applicant licensed to preach the gospel?
4. When and by whom was the applicant ordained?
5. What is the name of the Denomination or Church which the applicant has left, or is about to leave?
6. Has the applicant been connected, whether as a minister, a preacher, a member, or an adherent, with any other Denomination or Church than the one now mentioned?
7. What is the name of the congregation of which the applicant has been the pastor?
8. What is the date of his admission to the pastoral charge of it?
9. What success have the Presbytery reason to believe that the applicant had in that charge?
10. Are the Presbytery aware what have hitherto been the applicant's means of support as a minister?
11. What reasons does the applicant assign for his desire to be received into the Free Church of Scotland?
12. If there is a diversity of principle between the Free Church of Scotland and the applicant's former Denomination or Church, what account does the applicant give of the change in his views?
13. Is the applicant well acquainted with the events and controversies which led to the Disruption between this Church and the State in 1843, and are the Presbytery satisfied of his adherence to the principles maintained by the Church at that period?
14. How long has the applicant resided within the Presbytery's bounds?
15. What have been the Presbytery's opportunities of judging as to the applicant's probable usefulness?
16. What is their opinion of his gifts for the pulpit?
17. What opinion have the Presbytery formed in regard to the applicant's case? Do they recommend the General Assembly to authorize his admission?

V. The Ministers and Probationers, who may be received from other Denominations or Churches to the standing respectively of Ministers and Probationers of this Church, shall continue without any fixed charge, and without being capable of receiving a call, serving as preachers under the direction of the Presbyteries of the Church and according to the regulations made from time to time by the Home Mission Committee, for the period of one year after the General Assembly have given authority to receive them.

VI. The provisions of this Act shall not apply to Ministers belonging to the Presbyterian Churches in England and Ireland, and in the Colonies, with which this Church is in connection, [nor to Ministers belonging to the United Presbyterian Church,] so far as regards cases of orderly translation from charges in the said Churches to charges in this Church; neither shall the provisions of this Act apply to those Ministers of the said Presbyterian Churches, who may have been licensed to preach the gospel by Presbyteries of this Church.

Act III. 1872.

APPENDIX II. 3. VII. Act VIII., Assembly 1846. "Anent the Admission of Ministers from other Churches," is hereby repealed.

Ministers.

ACT III. 1873.—ANENT THE MUTUAL ELIGIBILITY OF MINISTERS OF THE UNITED PRESBYTERIAN, REFORMED PRESBYTERIAN, AND FREE CHURCHES.

Admission of  
Ministers from  
other Churches

The General Assembly, with consent of a majority of Presbyteries, enact and ordain that clause 6 of Act VIII. 1850, shall be amended and stand as follows, viz. :—"The provisions of this Act shall not apply to ministers belonging to the Presbyterian Churches in England and Ireland, and in the Colonies, with which this Church is in connection, nor to ministers belonging to the United Presbyterian and Reformed Presbyterian Churches, so far as regards cases of orderly translations from charges in the said Churches to charges in this Church ;" and that the rest of said clause shall remain unaltered.

In passing this Overture into a standing law, the General Assembly think it right to declare, as they hereby do declare, their adherence to great fundamental principles of this Church regarding—*first*, the sole and supreme authority of the Lord Jesus Christ, and His exclusive right to rule in and over His own Church, and the consequent obligation of his Church to be regulated in all her proceedings by His Word alone, for which end she claims to be protected in the maintenance of a complete independence in spiritual matters, and immunity from all coercion and control from without ; and regarding, *secondly*, the prerogative of the Lord Jesus Christ as head over all things to His Church, and supreme over nations and their rulers, who are consequently bound, collectively and officially as well as individually, and personally, to own and honour His authority, to further the interests of His holy religion, and to accept the guidance of His Word as making known His mind and will. And the Assembly further declare that the Overture now passed into law does not affect the rule for the admission of ministers to charges in any way inconsistent with these declarations, which the Assembly hereby appoint to be printed along with this Act in the printed Acts of Assembly.

ACT I. 1878.—ACT ANENT YEAR'S PROBATION REQUIRED OF MINISTERS ADMITTED FROM OTHER CHURCHES.

The General Assembly, with consent of a majority of Presbyteries, enact and declare, That so much of the Act VIII. 1850 as requires ordained Ministers from other Churches to be incapable of receiving calls during a year from the date of their admission to the standing of Ministers of this Church be superseded, and that such Ministers, when admitted by the Assembly in terms of the Act, shall be eligible to accept of calls immediately thereafter.

## APPENDIX III.

CHURCH COURTS—THEIR CONSTITUTION AND  
PROCEDURE.

## 1. General.

*Records of Church Courts.*APPENDIX  
III. 1.*Church Courts—  
General.*

## ACT IX. 1706.—ACT ANENT REGISTERS.

Anent Registers.

The General Assembly recommends it to all the judicatories of this Church, to take special care that the registers be correctly written, and that they allow no blottings or interlinings thereintil; and if anything shall happen to be blotted out as superfluous, that it be marked on the margin how many words or lines are blotted out, and that it was done by the authority of the judicatory, and that it be subscribed by the Moderator and Clerk; and if anything be omitted, that it be written upon the margin, and subscribed by the Clerk of the judicatory.

That every Act be noted on the margent for a directory of expedition. Sess. 11, 1642.

ACT IX. 1700.—ACT ANENT REVISING OF THE REGISTERS OF CHURCH  
JUDICATORIES.

The General Assembly, taking into their consideration the overture transmitted by the late General Assembly to Presbyteries, concerning the revising of the registers of Church judicatories, and having heard the same several times read in their own presence; as also having heard the report of the Committee for Overtures concerning the opinion of Presbyteries thereanent; and the General Assembly considering the great import to this Church that all its registers be exact and well kept, do require all Provincial Synods and Presbyteries to be careful in revising of the registers of the judicatories under their immediate inspection; and that they appoint a competent number of the most fit and experienced ministers for that work; and when they find nothing to challenge in any register, they give the same the attestation following, viz. :—

Revising the  
Registers of  
Church  
Judicatories.

“The Provincial Synod of \_\_\_\_\_ having heard the report of those appointed to revise the Presbytery book of \_\_\_\_\_, and having heard their remarks thereupon, and the said Presbytery’s answers thereto; and it having been inquired by the Moderator if any other had any complaints to make against the actings of the said Presbytery, and nothing appearing censurable, ordered the Clerk to attest this in their Presbytery book.”

And so for the registers of Provincial Synods and Kirk-Sessions, *mutatis mutandis*; but if there be anything truly censurable in the said book, and in itself material, with respect to discipline, that it be recorded as censured, both in the Synod book and attestation.

APPENDIX  
III. 1.Church Courts—  
General.

## Appeals.

## Appeals.

ACT, AUG. 30, 1639.—ACT ANENT APPELLATIONS.

The Assembly appointed that in all time hereafter no appellations should be leaping over either Presbytery or Synod, but to ascend by degrees as from the Kirk-Session to the Presbytery, or from the Presbytery to the Synod, and from the Synod to the General Assembly, except it be after the Synod be past, and immediately before the General Assembly, or in the time thereof.

ACT VIII. 1694.—ACT ANENT APPEALS.

## Appeals.

The General Assembly of this National Church, for preventing some mistakes that have happened about appeals, doth hereby appoint that any appeals made in writing under the appellant's hand with the reasons thereof, in presence of the judicatory appealed from, shall be extracted by the appellant in due form from the records of the said judicatory, and produced to the judicatory appealed to at the discussing thereof, with a citation of the parties-defenders therein, either *apud acta*, if they be present when the appeal is made, or a separate citation if they be absent.

All parties who have, immediately after sentence, verbally appealed and protested shall, within the space of ten days, give in their subscribed appeals with the reasons thereof to the Clerk of the judicatory appealed from, notwithstanding it may be up before that time. And, likewise, they shall within the same ten days intimate their said appeal, with the reasons of the same, to the Moderator of the said judicatory, and leave an authentic copy thereof with him. Which appeals and reasons are hereby allowed to be registered by the Clerk, and summons to be directed by him for citing the parties-defenders thereupon; and extracts thereof, with the citation fore-said, are appointed to be produced by the appellants, at discussing, to the judicatory appealed to; and the General Assembly hereby appoints the Clerk to intimate to the said judicatory, at their first meeting thereafter, that such appeals were given to him in the intervals of their meetings.

And suchlike the General Assembly hereby appoints that all defenders in appeals, who insist in discussing thereof, shall produce extracts of the said appeals and reasons to the judicatory appealed to. And, lastly, the General Assembly hereby declare that any appeals or insistings thereanent otherwise made shall be rejected.

APPENDIX  
III. 2.Session and  
Deacons' Court.Duties of Elders  
and Deacons.

## 2. Session and Deacons' Court.

ACT VII. 1846.—ACT ANENT THE DUTIES OF ELDERS AND DEACONS.

Whereas it has become necessary, in consequence of the restoration of the scriptural order of Deacons, and in consequence of the late change in the outward condition of the Church, to point out and regulate the duties of Elders and Deacons respectively, and to define and describe the powers of the meeting of congregational office-bearers for secular business, the General Assembly, with consent of a majority of the Presbyteries of this Church, enact and ordain:—

## I. Respecting the peculiar duties of ELDERS:—

1. That they sit in session along with the Minister, and assist in the administration of discipline, and in the spiritual government of the Church.

2. That they take a careful oversight of the people's morals and religious principles, of the attendance upon public ordinances, and of the state of personal and family religion.

APPENDIX  
III. 2.*Session and  
Deacons' Court.*

3. That they visit the sick from time to time in their several districts.
4. That they superintend the religious instruction of the young, and assist the Minister in ascertaining the qualifications of applicants for admission to sealing ordinances.
5. That they superintend and promote the formation of meetings within their districts for prayer, reading of the Scriptures, and Christian fellowship, among the members of the Church.

## II. Respecting the peculiar duties of DEACONS:—

1. That they give special regard to the whole secular affairs of the congregation.
2. That they attend to the gathering of the people's contributions to the general fund for the sustentation of the ministry; and that they receive the donations which may be made for other ecclesiastical purposes.
3. That they attend to the congregational poor.
4. That they watch over the education of the children of the poor.

## III. Respecting the duties which are common to ELDERS and DEACONS:—

1. That both elders and deacons may receive the Sabbath collections of the people, according to such arrangements as shall be made by the Deacons' Court.
2. That, for the better discharge of their peculiar duties respectively, as well as with a view to increased opportunities of doing good, both Elders and Deacons visit periodically the districts assigned to them, and cultivate an acquaintance with the members of the Church residing therein.
3. That it is competent for Elders to be employed as Deacons, when a sufficient number of Deacons cannot be had.
4. That Deacons may assist the Elders with their advice, whether in Session or otherwise, when requested so to do.

## IV. Respecting the meeting of Minister, Elders, and Deacons, for secular affairs,—which meeting may be called the DEACONS' COURT:—

1. That the Minister preside in said meeting, when he is present; and, in his absence, any Elder or Deacon whom the meeting may fix upon.
2. That the said meeting, or Deacons' Court, is convened by citation from the pulpit, or by personal notice to the members thereof, and is called by authority of the Minister, or at the requisition of any three members,—said requisition being addressed to the minister, or in time of a vacancy of the pastoral charge, to the Clerk of the said Court; and the proceedings are opened and closed with prayer.
3. That this Court has the management and charge of the whole property belonging to the congregation, including church, session-house, manse, school-buildings, etc., and of all its secular affairs,—including, of course, the appropriation of seats, with the determination of all questions relating thereto; and it is the province and duty of said Court to transmit, from time to time, to the treasurer appointed by the General Assembly, or their Committee, the funds raised for the general sustentation of the ministry; also to apply the remaining congregational funds, in fitting proportions, to the support of the minister, the payment of the salaries of the various subordinate functionaries, and the defraying of all necessary charges connected with the property, or with the dispensation of Christian ordinances; to apply, moreover, any surplus, which may thereafter arise, to religious, ecclesiastical, educational, or benevolent objects; likewise to make special Collections at the church-door, as often as may appear to them to be necessary, for the temporal relief of poor members of the congregation, and for the education of the children of the poor: and, finally, to receive the Deacons' reports of their proceedings, to give them such advice and instruc-

APPENDIX  
III. 2.*Session and  
Deacons' Court.*

tions as may be required, and to decide as to the payments to be made by them for the relief of the poor and the education of youth.

4. That while the Church is solely at the disposal of the Minister for all religious purposes, the consent of the Deacons' Court, as well as of the Minister, is necessary, before any meeting, not strictly of a religious, ecclesiastical, or charitable nature, can be held in it.

5. That the said Court shall have one or more treasurers, and a clerk, and a separate record for the minutes of its proceedings.

6. That the record of the Court, with the treasurer's account of receipt and expenditure, after said account shall have been duly audited by appointment of the Court, shall be annually exhibited to the Presbytery of the bounds, at the first ordinary meeting thereof after the 15th of March, for the purpose of being examined and attested by the Presbytery at said meeting.

7. That on the first Monday after said attestation of the record and treasurer's account, or on some convenient day of the first or second week following the attestation by the Presbytery, a congregational meeting shall be held, when the Deacons' Court shall present a report of its proceedings for the preceding year, give such information and explanations as may be asked for, and receive any suggestions which may be offered by the members of the congregation for the consideration of the Court, with reference to the future distribution of the funds. The congregational meeting shall be convened by intimation from the pulpit, and the minister, if present, shall preside in it.

8. That to the said Court shall belong the appointment and dismissal of the church-officer and door-keepers.

ACT XIV. 1847.—DECLARATORY ACT ANENT DEACONS' COURTS AND  
KIRK-SESSIONS.

Deacons' Courts  
and Kirk-  
Sessions.

Whereas it is desirable that the existing and constitutional Law of the Church respecting the business to be transacted in Deacons' Courts, and the relation of these Courts to the superior judicatories, and respecting the jurisdiction of Kirk-Sessions, should be clearly known, the General Assembly declare—

1. That the business to be transacted in the Deacons' Court consists in the administration of the funds, and property, and temporal affairs of the respective congregations.

2. That while it is inexpedient to sustain complaints or appeals against the ordinary administration of the Deacons' Court in secular and financial affairs, the said Court is nevertheless subject to the review of the Presbytery, in so far as it may take any step, or adopt any resolution, which the Presbytery can pronounce to be of a censurable nature, or in violation of any enactment of the General Assembly.

3. That it belongs to the Session to receive and accept the resignation of Elders and Deacons.

4. That it belongs to the Session to determine as to the election of Elders and Deacons, whether as regards the time and circumstances when such election may be necessary, or the number of these office-bearers that ought to be chosen; and to superintend and regulate the whole proceedings therein, according to the laws of the Church.

5. That congregational meetings are called by authority of the Session.

The General Assembly, in passing this Act, exhort the Ministers and



Elders of the Church to be diligent and regular in their attendance at the meetings of Deacons' Courts.

APPENDIX  
III. 2.

Session and  
Deacons' Court.

*Note.*—The Assembly at the same diet had the following Report laid before them, and the same was approved of—

"The Committee appointed by the Assembly with reference to the overtures anent Deacons' Courts and the administration of the financial affairs of congregations, report that they have prepared the following recommendations, which, they think, might with advantage be addressed to Deacons' Courts by the General Assembly, viz. :—

*Recommendations to Deacons' Courts.*

"1. That the minister's supplement be understood to consist of the money paid to him during any one year out of the congregational funds, or by his congregation, in order that, including the dividend for that year from the General Church Fund, he may have a suitable maintenance.

"2. That, after deducting *feu-duty*, the cost of insurance, the salaries of beadle and precentor, presbyterial, synodical, and Assembly charges, and the current yearly expenses that are necessary for the maintenance of public worship and the due administration of gospel ordinances, an adequate supplement for the minister be provided out of the congregational funds, before these funds are held applicable to any other purpose whatsoever.

"3. That the minister's supplement be paid at the terms of Whitsunday and Martinmas.

"4. That the average ordinary collection be deducted from all special or extraordinary collections made on the Lord's day, at the usual diets of worship."

ACT XVII. 1848.—DECLARATORY ACT ANENT CHURCH-DOOR COLLECTIONS  
AND MINISTERS' SUPPLEMENTS.

The General Assembly, considering how deep the interest is which Congregations have in the sufficient maintenance of their Ministers,—considering also that Congregations owe a duty to their ministers in the way of contributing to their temporal support, over and above what they are doing through the Sustentation Fund, for the general cause of the Gospel in the land,—and likewise considering that it is desirable there should be uniformity of principle in the application of Church-door Collections,—Declare that, in the circumstances in which this Church is now placed, the main and primary object of the Ordinary Church-door Collections must necessarily be the supplementing of Ministers' Stipends, it being for the most part more expedient that the relief of the poorer members of the Church should be provided for by occasional and extraordinary appeals: And they further declare, that, excepting what may be required for *feu-duty*, insurance, salaries of beadle and precentor, Presbyterial, Synodical, and Assembly charges, and the current yearly expenses that are necessary for upholding public worship and for the due administration of gospel ordinances, no sums whatever (even for objects that are highly laudable in themselves) ought to be paid out of the funds arising from the Ordinary Church-door Collections, until that object is suitably and adequately accomplished. And the General Assembly, considering also that the supplementing of stipends should, to a certain degree, be regulated by a regard to the amount which the congregation raises for the Sustentation Fund, and that some remedy ought to be applied in cases where the supplement appears in that view to be excessive, as well as in cases where the supplement is unduly withheld, or is less than it ought to be,—Enjoin the General Sustentation Committee to take notice of every case, whether of the one class or of the other, and to bring it under the eye of the Presbytery of the bounds,—and enjoin the said Presbytery to inquire into the circumstances, and to report the result of their investigation to the Committee, by whom the attention of the Assembly shall be called to the matter, if they see it to be necessary. The Assembly further appoint this Act to be printed for circulation among the office-bearers of the Church; and enjoin that, at the first meeting of every Deacons' Court that shall be held after the Act reaches the hands of the Moderator or Clerk thereof, it shall be read and engrossed in the minutes.

Church-door  
Collections and  
Ministers' Sup-  
plements.

## APPENDIX

## III. 2.

*Session and  
Deacons' Court.*Payment by  
Deacons' Court  
towards Assembly  
Expenses.ACT XI. 1869.—REGULATION AS TO PAYMENT BY DEACONS' COURTS TOWARDS  
ASSEMBLY EXPENSES.

The Assembly resolve and appoint that the sum charged to Congregations, on receipt of the Acts and other documents, towards Assembly expenses shall hereafter be seven shillings and sixpence from Congregations contributing less than £60 to the Sustentation Fund; from all Congregations contributing to the Sustentation Fund from £60 to £150, ten shillings per annum, in place of seven shillings and sixpence; and from all Congregations contributing to the Sustentation Fund above £150, one pound; and that these sums shall be collected by Presbytery Clerks along with the salaries of Synod and Presbytery Clerks.

ACT SESS. 22, AUGUST 29, 1639.—REVISAL OF BOOKS OF  
KIRK-SESSIONS.Revisal of Books  
of Kirk-Sessions.

That the Session-books of every Paroche be presented once a year to the Presbyteries, that they may be tryed by them.

*Membership.*

## ACT SESS. 14, 1645, § 12.—ANENT TESTIMONIALS.

Certificates.

None coming from another paroch shall be admitted to the Communion without a testimoniall from their own minister; and no minister shall refuse a testimoniall to any of his paroch who communicate ordinarily at their own paroch kirk, and are without scandall in their life for the time. And this is no ways to prejudge any honest person, who occasionally is in the place where the Communion is celebrate; or such as by death or absence of their own minister, could not have a testimoniall.

## REGULATIONS AS TO THE KEEPING OF COMMUNION ROLLS.

Communion  
Rolls.  
(Act VI. 1870.)

I. All once admitted upon the roll, and continuing to reside in the district, are to be held as still upon the roll, until formally cut off by a deed of Session, according to the Form of Process; and the names of such as are under process before the Session, and of such as have been temporarily suspended from sealing ordinances, must be regarded as still upon the roll, though not admissible to sealing ordinances.

II. In regard to heads of families who have left the district, and cannot, from the distance to which they have removed, or who do not, attend the ordinary means of grace in the congregation, but who have not applied for, or received, certificates, they are not to be considered as entitled to remain on the roll after one year's absence—it being understood that when any one receives a certificate, unless it be for the purpose of occasional communion in another congregation, his name is to be erased from the roll.

It seems expedient, and is believed to be the general practice, to exempt from this rule the younger members of a family who are in the situation of domestic servants, who from the arrangements of the families in which they reside, frequently have it not in their power to partake of the Lord's Supper in the congregation where they ordinarily attend public worship, and who are in the habit of visiting their parents at communion seasons, and communicating along with them, even though they may contribute to the funds of the Church in connection with another congregation. At the same time, while it may be found difficult, and not always expedient, to change this custom where it prevails, it ought not to be encouraged. It leads to a discrepancy between the Communion Roll and the Sustentation Register; and it would be a better arrangement if such persons were to

take certificates with them and join themselves to the congregations where they ordinarily worship, and, if necessary, return to the congregation where their parents are members, as occasional communicants.

In order to the carrying out of these rules it seems indispensable that intimations be annually given before the term of Whitsunday or Martinmas, as the case may be, that persons about to leave the district should take their certificates with them, and at once unite themselves to the congregation where they intend ordinarily to worship.

It were well also that ministers should, as far as possible, communicate with one another in regard to parties leaving their congregations.

ACT X. 1885.—ACT ANENT EVIDENCE OF PERSONS HAVING BEEN BAPTIZED PREVIOUSLY TO BEING ADMITTED COMMUNICANTS.

The General Assembly instruct all ministers and Kirk-Sessions, in cases of application for admission to the Communion, to satisfy themselves of such parties having been baptized, unless the ministers are cognisant of their having been already baptized.

APPENDIX  
III. 2.

Session and  
Deacons' Court

Evidence of  
Baptism.

Private  
Communion.

FROM ACT X. 1690.—ANENT ADMINISTRATION OF THE SACRAMENTS.

The Assembly hereby discharges the administration of the Lord's Supper to sick persons in their houses; and all other use of the same, except in the public assemblies of the Church.

*Instrumental Music.*

ACT VII. 1883.—ACT ANENT INSTRUMENTAL MUSIC.

The General Assembly having considered the Report of the Committee, with relative Overtures, Memorials, and Petitions, find that there is nothing in the Word of God, or in the constitution and laws of this Church, to preclude the use of Instrumental Music in public worship as an aid to vocal praise. The General Assembly do not feel entitled to withhold this declaration, which, in the circumstances, it has become their duty to make. But they record their sense of the regard due to the numerous petitioners, as well as to the Presbyteries which have sent up Overtures, and their regret at not carrying with them the convictions and feelings of so many office-bearers and members. They declare that while, in all such matters, due regard must be had to the peace of congregations, and the authority of the Courts of the Church, it is peculiarly incumbent on all parties to bear these obligations in mind, in a case where judgments are so much divided, and in view of the associations connected with the manner of conducting public praise heretofore universally prevalent in this Church.

Instrumental  
Music.

3. Presbyteries.

*Membership of Presbyteries.*

FROM ACT XVII. 1847.—ANENT THE CONSTITUTION OF PRESBYTERIES.

The General Assembly enact and declare,—

That the Presbyteries of this Church consist of all the Pastors of Congregations, Colleagues and Successors being included; of the Professors of Theology when there are any within their bounds; of such ordained Ministers within their bounds and not having charges, as have already been received in the capacity of members thereof respectively, or may hereafter, by authority of the General Assembly, be so received; and of a Representative Elder from each Kirk-Session.

APPENDIX  
III. 3.

Presbyteries.

Constitution of  
Presbyteries.

APPENDIX  
III. 3.*Presbyteries.*

Missionaries of  
this Church form-  
ing themselves  
into Presbyteries.

ACT IX. OCTOBER 1843.—ACT ANENT THE MISSIONARIES OF THIS CHURCH  
FORMING THEMSELVES INTO PRESBYTERIES.

The General Assembly, on considering an overture by certain Members of this House regarding the formation of Presbyteries by Missionaries in their respective fields of labour, did, and hereby do enact, that it shall be competent for the Missionaries of this Church, both to Jews and Gentiles, in subordination to the General Assembly of this Church, and when three or more ordained Missionaries are resident at any station, or in any district, to form themselves into Presbyteries, with power to exercise the usual functions of such Courts; that, in particular, the Presbyterian bodies already formed at Calcutta, Bombay, and Madras, shall merge into such Presbyteries, such Missionaries as may be sent to India to officiate among our own countrymen there taking the place of the Chaplains of the East India Company, and one of the Elders adhering to this Church for each of the ordained Missionaries or Ministers being admissible, instead of the Elders formally chosen by the Kirk-Sessions connected with the Congregations of the said Chaplains; that the Presbytery of Bombay, when duly constituted, be empowered to take Mr. James Aitken, Missionary at Puna, on trial for ordination, and to ordain him to the office of the holy ministry, if found qualified; and that all subsequent cases of application for ordination be reported by the Presbyteries to the Committees in this Church in connection with which the Missionaries may be labouring, for the purpose of obtaining the concurrence of these Committees as to the further steps to be taken. And the General Assembly further enact, that each of the Presbyteries so constituted shall be represented in the General Assembly by one Minister and one Elder.

## FROM ACT XII. 1776.—ELECTION OF REPRESENTATIVE ELDERS.

Presbytery  
Elders.

All Presbytery Elders shall be elected within two months after the sitting of Synod, to attend the Presbytery and ensuing Synod of that bounds; and in case of death or demission, a new election shall be made within one month of the same.

Every Elder so chosen shall produce an extract of his election under the hand of the Session-Clerk, before he be received on the roll of either Presbytery or Synod.

ACT I. 1875.—ANENT REPRESENTATIVE ELDERS IN NEWLY SANCTIONED  
CHARGES.

Elders in newly  
sanctioned  
Charges.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain that, in every case of a newly sanctioned charge in which a Minister has been ordained, and a Kirk-Session constituted by an election of ruling elders, according to the law of the Church, at a time more than two months after the last meeting of the Provincial Synod to which the charge belongs, it shall be the duty and privilege of the Kirk-Session, within one month after said ordination and constitution, to elect in due form a ruling elder, one of their number, to represent them in the Presbytery and Synod during the current half year, if the Synod meet twice in the year, and during the current year if it meet only once.

ACT XII. 1839.—ACT ANENT THE QUALIFICATION OF REPRESENTATIVE  
ELDERS.

Qualification of  
Representative  
Elders.

The General Assembly, on the Report of the Committee for classing Returns to Overtures, having found that the overture anent the Qualifica-

tion of Representative Elders has received the approbation of a majority of Presbyteries of the Church, did, and hereby do, enact the said Overture into a Standing Law of the Church, as follows:—

“The General Assembly, with consent of the Presbyteries of the Church, did, and hereby do, enact and ordain, That no Ruling Elder shall be deemed qualified to be chosen or to sit as a commissioner in any Presbytery, Synod, or General Assembly of this Church, who is not *bona fide* an acting elder in the congregation in which he holds office; and that in all commissions in favour of ruling elders, as commissioners to Presbyteries and Synods, it shall be certified by the Kirk-Session that the commissioner is *bona fide* an acting elder of their Congregation; and that amongst with every commission in favour of a ruling elder as commissioner to the General Assembly, there be produced a certificate to the said effect by the Kirk-Session of which he is a member, otherwise the commission to be rejected: Declaring always that the provisions of this Act shall not be construed to extend to the case of teaching elders, or theological professors in universities, inasmuch as their proper and peculiar function consists not in ruling in a particular congregation, but in teaching.”

(For forms of Commissions and Certificate, see pages 286, 293, and 302.)

ACT VI. 1868.—DECLARATORY ACT ANENT SUSTAINING COMMISSIONS FROM KIRK-SESSIONS AT *pro re nata* AND *in hunc effectum* MEETINGS OF PRESBYTERY.

The General Assembly hereby find and declare that Commissions from Kirk-Sessions may be sustained at *pro re nata* and at *in hunc effectum* meetings of Presbyteries, and further appoint that, when a *pro re nata* meeting is called between the meeting of Synod and the first ordinary meeting of Presbytery thereafter, the Moderators of Kirk-Sessions shall be requested by the Moderator calling the *pro re nata* meeting, to intimate said meeting to their Kirk-Sessions, that they may have an opportunity of electing and sending representatives to the Presbytery.

Sustaining Commissions from Kirk-Sessions.

*Quorum of Presbytery.*

ACT II. 1865.—ANENT A QUORUM OF PRESBYTERY.

The General Assembly find, That when at the time and in the place appointed for a meeting of Presbytery, two Ministers and one or more Ruling Elders, duly elected to represent a Kirk-Session or Kirk-Sessions, have convened together, there is a valid meeting of Presbytery; find that the production of valid commissions by Elders in such circumstances is sufficient evidence of their election.

Quorum of Presbytery.

*Revival of defunct Presbytery.*

ACT XII. 1866.—ACT ANENT PRESBYTERIES RESUMING THEIR FUNCTIONS.

This Act is quoted in full at page 36.

Presbyteries resuming their Functions.

*Presbyterial Visitations.*

ACT SESS. 23, 24, DECEMBER 17, 18, 1838.

Anent the visitation of particular Kirks within Presbyteries, it is thought expedient that it be once every year, wherein a care is to be had, among

Presbyterial Visitations.

## APPENDIX

## III. 3.

*Presbyteries.*

other things necessary, that it be tried how domestick exercises of religion be exercised in particular families, and to see what means there is in every parish in landward for catechising and instructing the youth.

## ACT XVI. 1706.—CONCERNING VISITATION OF PARISHES.

Presbyterial  
Visitations.

The General Assembly considering that frequent Presbyterial Visitations of Parishes would be of great advantage to the Church, and might tend much to promote piety and holiness, and suppress sin, do therefore seriously recommend to and enjoin Presbyteries to be more frequent and conscientious in visiting parishes conform to the Acts of former General Assemblies thereanent, and appoints the Commission to draw up and prepare a Directory for Ministerial Visitation of Families, and present the same to the next General Assembly.

REPORT OF COMMITTEE ON PRESBYTERIAL VISITATIONS, PRIVY CENSURES,  
AND SYNODICAL SUPERINTENDENCE.

Report of  
Committee.  
29th May 1846.

The Committee find that it is altogether impossible to prepare a full report on this important subject to the present Assembly. All that they can do is to indicate the general course which ought to be pursued by Church Courts in discharging this duty, without giving any very precise or definite directions on the subject. Should the Assembly approve of their report, they would suggest that it might be transmitted to Presbyteries as an overture; that a Committee should be appointed by the Assembly to take the whole subject into consideration; that the Presbyteries should be instructed to send in their returns to the overture, with any suggestions on this subject, to the Convener of the Committee, on or before the 1st March 1846, so as to enable the Committee to deliberate on the returns made at the Commission of Assembly during the same month, and thus prepare a more mature scheme for the next General Assembly.

The Committee think that it is most desirable that every endeavour should be made to do away the impression which very commonly prevails, that Presbyterial Visitations have scarcely any other object than to pry into and expose the deficiencies of the members and office-bearers of the Church. They would remind Presbyteries that in such visitations they may receive quite as much as they impart, and that every facility should be given to ministers and elders to state what they have found useful, in order that their brethren may be benefited by their experience. They would have the visit of the Presbytery of the bounds not regarded by the congregation with feelings of suspicion and dislike, but welcomed as what is to strengthen the hands of the eldership, and afford the congregation advice and sympathy in any trials to which they may be exposed. Unless such feelings of friendliness prevail between presbyteries and the congregations within their bounds, the Committee are satisfied that the most minute system of Presbyterial Visitation can be productive of but little good.

In regard to the manner of conducting these visitations, the Committee are not prepared to lay down any very rigid rule. The interval which should elapse between any two visitations of the same congregation cannot of course be less than one year, and probably should not be more than three. Where the congregations are not very numerous, the duty may be discharged by the Presbytery as a Court, and where this mode would be found inconvenient, by a committee. There is, however, an obvious advantage in the visitation of all the congregations by the same individuals.



The first step in visiting a congregation ought to be to furnish the kirk-session and deacons' court with a list of the queries which it is intended to put. The presbytery or committee should meet, in the first place, privately with the kirk-session and deacons, when they will examine the records of the session and deacons' court, including the register of baptisms and the communion-roll (if those have not been sent up to the presbytery), and receive written answers to the queries which had been previously transmitted. On all of which they will sit in judgment, putting such further questions to the minister, elders, and deacons, as may be necessary. This conference, when practicable, should be accompanied with devotional exercises. After which the presbytery will adjourn to the church, and the congregation being convened, a suitable sermon should be preached by a member of the presbytery or committee, to whom the duty has been previously assigned. Divine service having been concluded, the written answers and judgment of Court shall be read to the Congregation, accompanied with such exhortations as may be required.

Your Committee have, in the subsequent part of their report, indicated the subjects on which inquiries ought to be made, but they have not judged it necessary to put them into the form of questions. At the same time, they would recommend that a series of questions embracing these points should be drawn up by the presbytery and previously communicated to the congregation. In the event of the duty of visitation being performed by a committee, a written report of the visitation should be given to the presbytery, with a schedule containing a digest of the information received, and if any judgment has been come to on any point brought before them, that judgment should be recorded in the session or deacons' books as may be suitable.

The following are the principal topics regarding which inquiry ought to be made:—

1. *Office-Bearers*.—Number of elders? Of deacons? Have they districts? Are there stated meetings of session and of deacons' court? Are they held separately?

2. *Members*.—Number of communicants? Of adherents? Of seat-holders?

3. *Buildings*.—Church? Accommodation? Schools? Title-Deeds? Number of trustees? Manse? Debt?

4. *Schools*.—Day schools? Sabbath schools? Attendance? Number of teachers? Schools of industry?

5. *Collections*.—Average and annual amount? Extraordinary? Poor? Missionary undertakings?

6. *Sustentation Fund*.—Amount? Number of contributors and collectors?

7. *Public Worship*.—How many diets? Scriptures read at each diet? Lecture? Catechetical doctrine?

8. *Prayer Meetings*.—How many? How often? Attendance?

9. *Visitation of Families*.—By minister? By elders?

10. *Sessional Duty*.—Baptism, public or private? Sponsorship? Lord's Supper? Admission to it? By the session? Publicly or privately? Discipline? Classes of offences? How dealt with?

11. *Family Worship*.—Observance of?

12. *General State of Religion*.—Whether conferences are held by the session on the state of religion in the congregation or neighbourhood? Whether cases have of late occurred manifesting the power of Divine grace? Any special means employed for reclaiming the irreligious, and with what success?

In regard to the trial of Presbyteries by the Synod, it has been suggested to your Committee, that this duty also might be more efficiently performed by committees appointed at the previous diet of Synod, who might visit the Presbyteries at their ordinary seat, and report the result of their inquiries.

APPENDIX  
III. 3.*Presbyteries.*  
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Your Committee, however, are not prepared to recommend this mode of procedure, but would, for the present, leave it to the several Synods to adopt whatever methods may seem likely to be most efficient. If the trial of Presbyteries should be conducted in the manner hitherto practised by the Synod as a Court, a very few directions will be sufficient. The investigation should be proceeded in with closed doors; the several Presbyteries be called in rotation to the bar; the report of the Visitors of their books should then be read, and the Presbytery heard thereon; after which a list of questions, previously prepared, should be put to the Presbytery. The Synod should then take the whole matter into consideration,—either approve or disapprove of the Presbytery's procedure, record their finding in their Minutes, and order it to be engrossed in the Presbytery Records.

Your Committee would recommend, as of paramount importance, that the trial of Presbyteries should always take place at the second diet of Synod, in order that it may not be postponed to other business, and thus imperfectly discharged.

Your Committee would suggest the following subjects of inquiry, as fitted to bring out all the points to which the attention of Synod should be directed:—

Whether the meetings of Presbytery are usually attended by all the members? And whether one meeting in each year is set apart for prayer? Observance of the Presbyterial exercise, and of the Presbyterial visitation of the congregations? Acts of last Assembly read, and overtures considered? Records of Kirk-session and Deacons' Courts, and registers of baptisms, revised? Account of receipt and expenditure of the Deacons' Court attested? Communion-rolls attested? Residence of ministers? Number of elders and deacons? Have they signed the formula? How many vacancies? How many preaching stations? How many schools, and are they visited? Lecturing and preaching of ministers? How often the sacrament of the Lord's Supper is dispensed? Ministerial visitation of families? Collections for missionary undertakings? Annual meeting in support of them? Report received from kirk-sessions on the state of religion? Sustentation fund? Fast or thanksgiving days appointed by competent authority observed? What means taken for checking the growth of profaneness and error, and for preaching the gospel where no congregation is formed? Are there any meetings among the brethren for prayer and conference, with the view of strengthening each other's hands in the work of the ministry?

*Sanctioning of Charges.*

## ACT VII. 1849.—ACT ANENT THE SANCTIONING OF NEW CHARGES.

Sanctioning of  
New Charges.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain—

I. That all proposals for the erection of new charges shall be forwarded to the Clerks of Assembly, by the Presbytery of the bounds, at least a week before the meeting of the Commission in March.

II. That the Clerks of Assembly shall give in a report to the said meeting of the Commission, containing a list of the congregations proposed to be sanctioned as pastoral charges, and a particular statement of the whole circumstances of each case; that the said report shall be transmitted without delay to the Home Mission and Sustentation Fund Committees; and that these Committees shall report to the General Assembly next ensuing their opinion as to the expediency of sanctioning the said congregations as pastoral charges or not.

*Colleagues and Successors.*APPENDIX  
III. 3.*Presbyteries.*

FROM ACT VIII. 1862.—ACT ANENT APPLICATIONS FOR THE APPOINTMENT OF COLLEAGUES AND SUCCESSORS.

The General Assembly, with consent of a majority of Presbyteries,  
 Ordain, That every application for a colleague and successor shall be made to the Commission of the General Assembly at its meeting in March, and the Commission is hereby required to transmit such applications to the Sustentation Fund Committee, who shall report their opinion thereon to the General Assembly.

Appointment of  
Colleagues and  
Successors.

MINUTE OF ASSEMBLY, 4th JUNE 1866.

With reference to the preparation of cases which come before the Committee on Colleagues and Successors, the Assembly recommend to Presbyteries to embody in their own minutes as briefly as may be consistent with clearness the essential points involved in the minutes of Kirk-Sessions, Deacons' Courts, and Congregations, regarding cases of application for Colleagues and Successors, or for Assistants, or for aid from the Aged and Infirm Ministers' Fund, and the Assembly appoint that when the minutes of Presbytery have been thus prepared, those minutes alone shall for the future be printed by the Clerks of Assembly, with the provision that the printed papers shall present, in each instance, an abstract of the information contained in the schedules sent in to the Commission in March.

Application for  
Colleagues and  
Successors.*Medical Missionaries.*

ACT X. 1882.—ACT ANENT MEDICAL MISSIONS.

The Assembly empower Presbyteries, in the case of young surgeons who are members of the Free Church, and are about to enter upon Medical Mission Work abroad, if they see cause, after suitable examination and inquiry, to recognise them as members and servants of the Church specially set apart for evangelistic work in the foreign field, and to commend them in prayer to the grace of God.

Medical  
Missionaries.

## 4. Synods.

APPENDIX  
III. 4.*Synods.**Corresponding Members to Synods.*

FROM ACT SESS. 23, 24, 1638.

It is remembered that of old, the Synodall Assemblies that were nearest to others had correspondence among themselves, by sending one or two commissioners mutually from one to another, which course is thought fit to be kept in time coming; viz., the Provincials of Louthian, and Mers, etc.; the Provincials of Dumfreis, Galloway, Glasgow, and Argyll; the Provincials of Perth, Fyfe, and Angus, etc.; the Provincials of Aberdein, and Murray; the Provincials of Rosse, Caithnes, and Orknay. The commissioners for correspondence amongst the Synodals to be a minister and a ruling elder.

Corresponding  
Members  
to synods.*Synod Records.*SESS. 4, 1646.—ACT CONCERNING THE REGISTERS AND ACTS OF  
PROVINCIAL ASSEMBLIES.

The Assembly recommends to Provincial Assemblies that hereafter they

## APPENDIX

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*Synods.*

Synod Records.

cause read all their Acts before the dissolving of every Assembly; and that their registers be written formally, and in a good hand-writing, with the several leaves or pages thereof marked by ciphers, according to their number.

## ACT XI. 1698.—RECOMMENDATION ANENT SUBSCRIBING OF SYNOD RECORDS.

The General Assembly recommends to all Synods for hereafter to take care that their registers be completely filled up always before the sitting of the General Assembly; and that the proceedings of every Synod be signed both by the Moderator and Clerk thereof; and, lastly, appoints the Synod books thus filled up and subscribed, to be timeously produced to the General Assembly yearly, in order to their being revised.

## ACT VII. 1835.—ACT AND ORDER AS TO SYNOD BOOKS.

The General Assembly, on calling for the different Synod books of this Church, find that many Synods are not in the practice of sending up their books to the Assembly, as by many former Acts they are required to do. The General Assembly hereby do enact and ordain that Synods shall in future be careful to cause their books to be regularly transmitted to every Assembly.

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*General Assembly.*

## 5. General Assembly.

*Representation of Presbyteries.*

## ACT VI. 1698.—ACT FOR PUNCTUAL SENDING OF COMMISSIONERS TO THE GENERAL ASSEMBLIES, AND THEIR ATTENDANCE DURING THE SITTING THEREOF.

Commissioners  
to the General  
Assemblies, and  
their attendance.

The General Assembly, taking into their consideration the overture transmitted by the last Assembly to Presbyteries, anent punctual sending of commissioners to General Assemblies, and their attendance during the sitting thereof; and having heard the report of the several commissioners from Presbyteries, to whom the consideration of the same was recommended, in order to its being more ripely advised and determined in this Assembly—the General Assembly do appoint Presbyteries to choose their commissioners for the General Assembly a competent time before the sitting thereof, at least forty days, and that each General Assembly appoint a committee of censures to cognosce upon the dates of commissions, and the attendance of those commissioned; to the end that such Presbyteries as do not make their election in due time, as likewise, such commissioners as do not attend duly from the beginning, and through the whole diets of the General Assembly, and the committees which they may be put upon, not having a relevant excuse, may be censured as the General Assembly shall think fit. And, lastly, the General Assembly recommends to Presbyteries to choose such ruling elders to be their commissioners as may attend, and seriously to exhort them when chosen to make conscience of attending upon General Assemblies.

## ACT VII. 1738.—ACT ABOUT THE MANNER OF ELECTING MEMBERS OF THE GENERAL ASSEMBLY.

Manner of Elect-  
ing Members of  
Assembly.

The General Assembly, for the more regular election of Members of Assembly in time coming, considering that it is already provided that the election shall be made at least forty days before the meeting of the Assembly, do

hereby further enact, that hereafter each Presbytery of this Church (except those lying in Northern or Western Isles) shall make their elections yearly, within a month preceding the first of the said forty days; and that every Presbytery, without exception, shall appoint the day of election by an order of the Presbytery, at an ordinary meeting, to be entered in their minutes at least ten free days before such election; and that on the day of election, the Presbytery shall make their elections betwixt the hours of one and eight in the afternoon.\*

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ACT I. 1877.—ACT ANENT THE TIME OF ELECTING COMMISSIONERS.

The General Assembly, with consent of a majority of Presbyteries, hereby enact and ordain, That, whereas the requirement of Act VII., Assembly 1738, with respect to the election of Commissioners by Presbyteries to the Assembly, that the election shall always take place between the hours of one and eight in the afternoon, is not suited to existing circumstances throughout the country, hereafter the election of Commissioners to the Assembly by any Presbytery shall be valid if made between the hour of eleven o'clock forenoon and the hour of eight o'clock in the evening.

Time of Electing  
Commissioners.

ACT XI. 1838.—ACT ANENT THE ELECTION OF COMMISSIONERS TO THE GENERAL ASSEMBLY FROM THE PRESBYTERIES OF THE NORTHERN AND WESTERN ISLANDS OF SCOTLAND.

The General Assembly enacts and ordains, That, in respect of the situation of the Northern and Western Islands, frequently rendering it difficult or impossible for the Presbyteries in these Islands to assemble on particular days during the months of winter and spring, it shall be competent for these Presbyteries to elect their Commissioners to the General Assembly at any time before the first day of May in each year, due notice of the intention to elect having been given fifteen days preceding.

Election of Com-  
missioners from  
the Presbyteries of  
the Northern and  
Western Islands.

FROM ACT XVII. 1847.

All regularly sanctioned charges, although not supplied with Pastors at the time, count as ministers in the matter of representation in the General Assembly.

Vacant charges.

ACT II. 1867.—ACT ANENT REPRESENTATION OF PRESBYTERIES.

The General Assembly, with consent of a majority of Presbyteries, hereby enact and ordain, That hereafter, when a charge has been sanctioned for the first time, it shall not be counted as increasing the number of the charges in a Presbytery, with a view to representation, until a pastor has been inducted into it.

Newly sanctioned  
charges.

ACT V. 1859.—ACT ANENT THE REPRESENTATION OF PRESBYTERIES.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain, That hereafter, all Presbyteries having any number of charges exactly divisible by three, shall return exactly one-third of the number of their ministers, and the same number of elders, to represent them in the Assembly.

Representation  
of Presbyteries.

That Presbyteries having four charges shall, for two successive years, send one minister and one elder to the Assembly, and in the third year, two

\* See following Act.

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ministers and two elders; that Presbyteries having five charges shall, for two successive years, send two ministers and two elders to the Assembly, and in the third year, one minister and one elder; and that all Presbyteries having any number of charges which is not a multiple of three, shall send members to represent the remainders on the same principle; so that, in the course of three years, a number of returns, both of ministers and elders, shall have been made from each Presbytery equal to the whole number of charges which that Presbytery contains.

## ACT XII. 1860.—ACT ANENT REPRESENTATION OF PRESBYTERIES.

Representation  
of Presbyteries.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain, That any Presbytery having four ministerial charges, shall, in the year immediately following the passing of this Act, and also in the second year thereafter, return only one minister and one elder to the General Assembly; but in the third year thereafter, shall return two ministers and two elders. That any Presbytery having five charges, shall, in the year immediately following the passing of this Act, and also in the second year thereafter, return two ministers and two elders; and in the third year, only one minister and one elder. That any Presbytery having seven charges, shall, on the same principle, begin with returning the lowest number allowable, and end with returning the highest. That any Presbytery having eight charges shall begin with returning the highest number allowable, and end with returning the lowest. That any Presbytery having ten charges shall begin with returning the lowest number allowable, and end with returning the highest. That any Presbytery having eleven charges shall begin with returning the highest number allowable, and end with returning the lowest. That the same principle of alternation be acted on in the returns from Presbyteries having 13 or 14, 16 or 17, 19 or 20, 22 or 23, 25 or 26, 28 or 29, 31 or 32, 34 or 35, 37 or 38, 40 or 41, 43 or 44, 46 or 47, 49 or 50, 52 or 53, 55 or 56, or any higher number of charges not being a multiple of 3.

NOTE.—*The remainder of this Act was rescinded by Act II., Assembly 1870, as superseded by the Standing Orders.*

## ACT IX. 1862.—ACT ANENT REPRESENTATION OF PRESBYTERIES.

Representation  
of Presbyteries.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain, That the succession of three years, with reference to the representation of those Presbyteries in which the number of charges is not divisible by three, shall be held to have commenced as if the Act anent Representation of Presbyteries, which was passed into a Standing Law of the Church in 1860, had been passed into a Standing Law in 1859, and according to the intimations sent by the Clerks of Assembly to Presbyteries in 1859.

ACT XIII. 1860.—ACT ANENT THE VALIDITY OF COMMISSIONS FROM  
PRESBYTERIES.Validity of Com-  
missions from  
Presbyteries.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain, That hereafter, in the event of any Presbytery including a larger number of names in its return of representatives to the Assembly than the law allows, the Commission shall not be vitiated in so far as the proper



number of names is concerned, but the names mentioned first in order shall be taken as the names of the representatives, until the proper number be exhausted.

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NOTE.—For Form of Commission, see page 302.

ACT II. 1885.—ACT ANENT PRESBYTERIES, IN AN AFTER ELECTION, ELECTING REPRESENTATIVES TO THE ASSEMBLY AFTER THE ASSEMBLY HAS CONVENED.

The General Assembly find and declare, That any election by a Presbytery of a representative to the Assembly after the Assembly has convened shall be held invalid.

ACT VI. 1873.—ANENT REPRESENTATION OF FOREIGN PRESBYTERIES.

The General Assembly enact as follows:—

1. That every regularly-recognised Presbytery of this Church in foreign countries, whether it consists largely of Missionaries or not, shall be authorised to send at least one minister and one ruling elder to represent them in the General Assembly.

2. That no such Presbytery shall send more than one minister and elder, unless it comprise within its jurisdiction more than three sanctioned Congregations with regularly-inducted pastors, members of the Presbytery.

3. That, if the number of Congregational charges in a Presbytery exceed three, it shall be authorised to send a number of ministers and elders in due proportion to the number of such charges, according to the rules applicable to Presbyteries in Scotland.

4. That while no other position except that of a pastor over a congregation, even though it may constitute a minister a member of a foreign Presbytery, shall be reckoned as adding to the number of charges affecting the representation of such a Presbytery, no charge shall be considered as sanctioned, or shall be taken into account in representation, until it has been recognised as a regular congregational charge by the Committee on Foreign Missions, or the Colonial or Continental Committees, and until the Report of the Committee recognising it shall have been approved of by the General Assembly.

The General Assembly, with respect to the time of election of representatives to Assemblies by Presbyteries in Foreign Countries, hereby appoint that such election shall be made at any time after the first day of January every year, and not less than forty days before the meeting of Assembly, but at any hour of the day that may be found suitable.

ACT IX. 1863.—ACT ANENT FORM OF COMMISSIONS AND CERTIFICATES TO RULING ELDERS.

The General Assembly, with consent of a majority of Presbyteries, hereby enact and ordain—

That so much of the form of Commission to Representatives in the General Assembly, set forth in Act VIII. Ass. 1853, as requires the Presbytery to “declare that all the elders above named have signed the Formula,” be henceforth omitted. And that in lieu thereof there be added to the form of the certificate to be used by Kirk-Sessions, likewise set forth in the said Act, these words, “and also that he has signed the Formula.”

The General Assembly hereby appoint that the clause in the attestation by a Presbytery of its commission, consisting of the following words, “and the said Presbytery do hereby testify and declare that all the ministers and elders above named have signed the Formula,” be altered by the omis-

Foreign  
Presbyteries.

Form of  
Commissions  
and Certificates  
to Ruling Elders.

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sion of the words, "and elders," and that the following words be added to the *bona fide* certificate, by a Kirk-Session to an elder, "and that he has signed the Formula."

(For form of Certificate, see page 293.)

### *Returns to Overtures—Barrier Act.*

ACT IX. 1697.—ACT ANENT THE METHOD OF PASSING ACTS OF ASSEMBLY OF GENERAL CONCERN TO THE CHURCH, AND FOR PREVENTING OF INNOVATIONS.

Barrier Act.

The General Assembly, taking into their consideration the Overture and Act made in the last Assembly concerning innovations, and having heard the report of the several commissioners from Presbyteries to whom the consideration of the same was recommended, in order to its being more ripely advised and determined in this Assembly; and considering the frequent practice of former Assemblies of this Church, and that it will mightily conduce to the exact obedience of the Acts of Assemblies, that General Assemblies be very deliberate in making of the same, and that the whole Church have a previous knowledge thereof, and their opinion be had therein, and for preventing any sudden alteration or innovation, or other prejudice to the Church, in either doctrine or worship, or discipline, or government thereof, now happily established; do, therefore, appoint, enact, and declare, that before any General Assembly of this Church shall pass any Acts, which are to be binding rules and constitutions to the Church, the same Acts be first proposed as Overtures to the Assembly, and, being by them passed as such, be remitted to the consideration of the several Presbyteries of this Church, and their opinions and consent reported by their commissioners to the next General Assembly following, who may then pass the same in Acts, if the more general opinion of the Church thus had agree thereunto.

### *Reception of Dissents.*

MINUTE OF ASSEMBLY, 31st MAY 1828.

Reception of  
Dissents.

Report of the Committee appointed to search for precedents with regard to the time and manner of giving in dissents from judgments of this House called for and given in by Dr. Cook, the Convener, as follows:—"The Committee having examined the records of the Assembly from a remote period, find that it was long the invariable practice that dissents were entered on the day upon which the sentences dissented from were pronounced, leave in this case being given to members to adhere to the dissent on a subsequent day; but that, in some recent instances it appears from the records that dissents had been entered on a subsequent day. The Committee humbly suggest to the venerable Assembly that the ancient practice should be sanctioned, and ordered in future to be uniformly observed." The Assembly approve of the Report, and enjoined, in terms thereof, that the ancient practice should in future be enforced and uniformly observed.

### *Relative position of Principal Clerks of Assembly, etc.*

MINUTE OF ASSEMBLY, 25th MAY 1868.

Principal Clerks  
of Assembly.

The General Assembly declare that henceforth there shall be a Senior Principal Clerk and a Junior Principal Clerk to the Assembly and its ordinary Commission; the Senior Principal Clerk being the Clerk first appointed, and the Junior Principal Clerk being the Clerk more recently appointed; that the more extraordinary duties, for which the extra salary has hitherto

been paid, shall in the meantime continue to be discharged by Sir Henry Moncreiff; that the Salaries of £75 each, hitherto paid to the Principal Clerks, shall continue to be paid to Sir Henry Moncreiff, and to the person now to be elected as Junior Principal Clerk; and that the additional salary of £30, hitherto paid, first to Mr. Pitcairn, and afterwards to Sir Henry Moncreiff, shall continue, in the meantime, to be paid to Sir Henry Moncreiff, under the head of additional Salary for *extra trouble and correspondence*.

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## STANDING ORDERS OF THE GENERAL ASSEMBLY.

As Revised and Classified by Act VIII. 1853, and Amended by Act VIII. 1855, Act VI. 1856, Act III. 1857, Act. X. 1858, Act III. 1859, Act III. 1860, Act X. 1861, Act IV. 1864, Act IV. 1865, Act IX. 1866, Act VIII. 1868, Act I. 1873, Act I. 1876, and Act I. Assembly 1885.

Standing Orders  
of General  
Assembly.

It is ordered—

### I. AS TO REPRESENTATION OF PRESBYTERIES.

1. That all Commissions transmitted to the Clerks of Assembly shall be revised by them, in so far as regards the regularity of said Commissions in point of form, and that the Clerks shall prepare and submit a Report on the subject to the Committee appointed by the Assembly for the revising of Commissions.

2. That the Clerks of the Assembly shall furnish all Presbytery Clerks with printed copies of the form of Commission to Representatives hitherto in use, and also of the *bona fide* Certificates to be used by Kirk-Sessions, according to Acts VIII. Assembly 1853, and IX. Assembly 1863, for certifying Elders who are chosen to be Commissioners to the General Assembly.

3. That there shall be attached to Commissions a statement, certified by the Presbytery Clerk, of the number of charges in each Presbytery at the date of the Commission, and of any changes that have taken place during the previous year.

4. That Clerks of Presbyteries shall send intimation to the Clerks of Assembly of the death of a colleague, or of the induction of a colleague and successor, immediately after that event has taken place.

5. That the Assembly Arrangements Committee shall meet in the month of February annually, for the purpose of considering and ascertaining the effect as regards representation of any changes in Presbyteries which may have occurred in the course of the previous year, by the death or removal, or by the induction of colleague ministers, or by the sanctioning or the reduction of charges by the preceding General Assembly or its Commission, or by any other cause, and shall immediately thereafter intimate to the Presbyteries concerned what will be their representation in the ensuing General Assembly.

6. That the decision of the Assembly Arrangements Committee, so intimated to Presbyteries, shall be subject to review by the General Assembly, if appealed against or dissented from.

7. Should any question arise between the month of February and the meeting of Assembly, not provided for by these orders, the Assembly Arrangements Committee shall meet for the consideration and disposal of such questions.

8. That the Clerks of Assembly shall, at the commencement of each triennial period, prepare a table of the representation of all Presbyteries of the Church, and shall, on or before the 1st day of March, intimate to the

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*General Assembly.**Standing Orders.*

Clerk of each Presbytery what will be the representation of his Presbytery in the next three Assemblies, and shall give in the said table to the Commission in March.

## II. AS TO THE TRANSMISSION to the Clerks of Assembly, of Commissions, Overtures, Returns to Overtures, and Petitions to the Committee on Bills.

1. That all Commissions shall be sent up by the Clerks of the respective Presbyteries, so as to be in the hands of the Clerks of the General Assembly at least one week before the Assembly meets.

2. That all Overtures from Presbyteries and Synods be sent in to the Clerks of Assembly at least one week before the meeting of Assembly, in order that they may be duly arranged and printed, at the expense of the Assembly, for the use of the Members, and that said Overtures be in the form of certified extracts from the Minutes of the Court by which the Overture is transmitted.

3. That Presbyteries shall transmit to the Clerks of Assembly their Returns to overtures at least a week before the meeting of Assembly; that said Presbyterial returns shall consist of certified extracts from the Minutes of Presbytery, and that a separate leaf of paper shall be used for the return on each Overture sent down by the General Assembly.

4. That papers in cases intended to be transmitted to the Assembly through the Committee on Bills, shall be accompanied by a Petition to that Committee, in the name of the party or parties transmitting, and that the Petition shall be transmitted on the day before the Meeting of Assembly, with a view to promote the greater despatch of business at the meeting of the Committee,—it being understood, that this order shall not dispense with the attendance of parties at that meeting.

## III. AS TO COMMITTEES for Bills and Overtures.

1. That the Committees for Bills and Overtures, appointed by the Assembly at their first diet, shall meet on the evening of that day, and again on the following day, half an hour before the meeting of Assembly.

2. That the Committee on Bills shall see that all papers presented to them in cases from Inferior Courts, whether forming part of the Record, or produced in evidence before said Courts, have been duly dated and numbered by the Clerk of said Courts, and marked with his initials. And that the Committee shall not receive any paper which is not so authenticated, unless upon special cause shown, to be reported by them to the General Assembly.

3. That there shall be no meeting of either Committee after the first Monday of the Assembly, except by the leave of the Assembly on special cause shown.

## IV. AS TO PRINTING of Papers in Cases coming up to the Assembly.

1. That all papers passing through the Committee on Bills, viz. Memorials, Petitions, Applications, References, Complaints, and Appeals, with Extracts of Minutes of Inferior Courts relative thereto, as also Reasons of Complaint or Appeal; and in cases of Libel,—the Libel, with the Defences and Evidence adduced, shall be transmitted in manuscript to the Clerks of Assembly not later than ten days before the meeting of Assembly, in order to be printed in sufficient numbers for the use of the Members of Assembly (the number required to be annually advertised by the Clerks).

2. That all such papers be printed by the Clerks. That, in causes, the expense of printing shall be borne by the Complainer or Appellant, when

there is one. When the Inferior Court shall refer a cause to the Assembly, without pronouncing judgment, the expense shall be borne by the parties mutually, under the certification that the party refusing to pay his share thereof, before the time appointed for laying the same on the table, shall be considered as having deserted the cause, and shall not be entitled to be heard. That in all other cases, such as Petitions, References not in causes, Memorials, etc., the expense shall be borne by the party having interest in the same, or desiring a deliverance from the Assembly.

3. That all such papers be printed in the octavo form, corresponding to pages of the volume of "Proceedings."

4. That all such papers shall be stitched together and paged, and provided with an alphabetical index for reference; and that a copy shall be given to each member along with his ticket.

5. That a copy of every printed paper shall be kept by the Clerks of Assembly, to be bound up and kept among the records of Assembly.

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## V. AS TO THE GENERAL ASSEMBLY.

### 1. *Devotional Exercises.*

(1.) That the Assembly hold the first diet of the second day of their meeting as a diet to be chiefly spent in devotional exercises.

(2.) That any proposal for a pause in the Assembly's proceedings, with a view to engage in special devotional exercises, shall be made to the Assembly only through the Moderator.

### 2. *Business Committee and Committee for Printing the Acts.*

(1.) That the Assembly shall, at their first diet, appoint a Committee to arrange the business of the House;—that said Committee shall meet on the following day, and be prepared to make their first Report to the Assembly at the second diet of Friday, immediately after the Reports of the Committees on Bills and Overtures have been read, excepting in so far as they may see fit to make any suggestion at a preceding diet, as to the business to be taken up by the Assembly at the said diet on Friday. And further, that the Business Committee shall report from time to time to the Assembly, until the whole business has been disposed of.

(2.) That at the same diet a Special Committee shall be appointed for printing the Acts of Assembly. That the said Committee shall prepare an Interim Report with special reference to the selection of Principal Acts, which shall be laid on the Table at the forenoon diet of the last Monday during the Sittings of Assembly, and after being printed in the "Daily Proceedings," shall be considered at the forenoon diet of the Tuesday following.

### 3. *Reports of Committees.*

(1.) That Reports of Standing Committees, or abstracts or summaries of them, shall be printed, and transmitted to the Clerks of Assembly at least a week before the meeting of Assembly, and shall be stitched together, and indexed, and a copy given to each member along with his ticket; and that all Reports so distributed shall be held as read.

(2.) That Reports shall be printed in a size and style uniform with the volume of Reports of Assembly Proceedings, and that the Committee shall furnish the publisher of said volume, immediately after the rising of the Assembly, with a number of copies corresponding to the amount of its circulation.

(3.) That Reports shall not be engrossed in the Record, but after being printed, a copy of each, certified by one of the Clerks as being that given in to the Assembly, shall be kept *in retentis*, and the Reports thus collected

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shall be bound up in volumes, to be preserved among other documents of the Assembly.

(4.) That verbal Reports shall not be received, and no Sub-Committee shall give in any Report to the Assembly.

(5.) That the final deliverance of the Assembly upon the Report of any Committee shall always follow immediately after the consideration of said Report, except in the event of a special reason for the contrary having been approved of by the Assembly, and recorded in the Minute.

(6.) That all Reports of Committees appointed during the Assembly's sittings, which contain any proposed deliverance not already printed, be put into the hands of the Clerks at least one diet previously to its being moved, that they be approved of.

4. *The Reading of Speeches, and Length of Speeches.*

(1.) That in the discussion of any subject brought before the Assembly, by overture, or by the Report of a Committee, it shall not be allowable, without leave granted by the House, for any Member to read his Speech from a Manuscript prepared previously to the discussion, except in the case of a Member introducing an important subject to the attention of the House.

(2.) That, previously to the discussion of any question which does not arise upon the Report of a Committee, or when no motion given notice of contains an approval of such Report, the House shall determine, in such manner as may seem most expedient, the order of priority belonging to the motions given notice of; and that, when a motion approving of a Report has been made and seconded, the House shall determine in the same manner the order of priority belonging to any other motions given notice of.

(3.) That, in the discussion of any question, no speaker except the proposer of the first motion, and the proposer of the second motion in the appointed order, shall address the House for a longer period than twenty minutes, unless the Moderator shall ascertain that the House desires him to continue, and shall intimate the ascertained desire to that effect.

(4.) That the proposer of the first motion, and the proposer of the second motion in the appointed order, shall not address the House for more than an hour each, unless the Moderator shall, in the same manner as in the above-mentioned case, ascertain and intimate a desire of the House to the Assembly.

5. *The Conducting of Causes.*

(1.) That, as far as may be possible, separate days shall be set apart for causes, and that it be understood that the first Saturday and Monday shall be mainly devoted to this purpose.

(2.) That Counsel shall not be heard at the bar in any causes which may come before the House.

(3.) That when a Presbytery acquiesces in the Sentence of a Synod, it shall not be entitled to appear as a separate party at the bar of the Assembly, but the members of Presbytery may nevertheless be heard as members of Synod.

(4.) That in no case shall there be more than two speeches for each party at the bar, including the reply to which the appellant or complainer shall be entitled; and when there are more than two parties, there shall only be one speaker, and one speech for each, besides the reply,—it being understood that where there are more than one complainer, each shall be considered as a different party only in case of its appearing to the Assembly that the complaints rest upon distinctly separate grounds.

(5.) That, previously to hearing the parties in any cause, the Clerk shall



read the following announcement, viz. :—"The members are reminded that justice requires the pleadings at the bar to be heard by all those who vote in the cause, and that in particular, no member ought to vote against either side of the bar who has not heard the pleadings on that side."

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(6.) [1.] That the Clerks of Assembly shall not issue the papers to the members of Assembly, with reference to cases which they think require to be conducted with closed doors, until specially instructed by the Assembly to do so ; but shall report such cases to the Convener of the Business Committee, for its information immediately after its appointment.

[2.] That the Business Committee shall, in their first Report, specify any case which, in their judgment, requires to be conducted with closed doors ; and any case which does not appear to them of that character, although the Clerks may have reported it as such.

[3.] That, in all cases thus reported on by the Business Committee, the Assembly shall itself determine, by a special deliverance, at what stage of the proceedings the papers shall be issued to the members ; and

[4.] That in every case which the Assembly appoints to be conducted with closed doors, the instruction to issue the papers shall be accompanied by a special exhortation to the members to keep them private.

#### 6. *Motions and Votes.*

(1.) Every motion, whether original or amended, shall be given in to the Clerk in writing, as soon as it shall have been made to the House.

(2.) When a motion is duly seconded, and in possession of the Assembly, it shall not be competent to make any alteration upon it without the permission of the House, excepting in the shape of an amendment, or second or third motion, as the case may be, regularly proposed to the Assembly.

(3.) The person who makes the first motion shall be entitled to the privilege of giving a reply, in which new matter must not be introduced ; thereafter the debate shall be held to be definitely closed, and no other person shall be entitled to speak, excepting with regard to the manner of putting the vote.

(4.) All motions after the first shall be considered as amendments on the first, and disposed of accordingly.

(5.) When there are only two motions before the House, the question put to the vote shall be *motion or amendment*, or *first or second motion*.

(6.) When there are three motions, the first question shall be, whether the second or third motion shall be put as the amendment against the first ; and the second question shall be, whether the first motion or the amendment so fixed shall be the decision of the House.

(7.) When there are more than three motions, the first question shall be, whether that last proposed shall be put as the amendment, and so on till only three remain, when the procedure shall be as prescribed in Article 6.

(8.) In causes it shall not be competent to move an amendment to the motion unless it be of such a nature as to decide the case, or to forward it in its progress.

(9.) No notice of motion shall be printed by the Clerks, or allowed precedence in discussion, which has been given in earlier than the first Saturday of the Assembly's meeting, unless it relate to business which the House has agreed to take up on Friday or Saturday of the first week.

(10.) That when any proposal has been submitted in the Report of a Committee, any motion for approval of such proposal shall take precedence of any counter motion or amendment.

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Standing Orders.7. *Mode of taking the Vote.*

(1.) That on a division being called for, a bell shall be rung for two minutes, during which time the Reporters' seat shall be closed, and all parties who are not members, but have the privilege of entering the House, shall withdraw.

(2.) That after the ringing of the bell, the Clerk shall repeat the announcement required to be made under Section 5 paragraph (5).

(3.) That the division doors shall be placed in their position, and one side of each folding entrance door be closed, so that the Members may be able to go out only one at a time.

(4.) That when the bell shall have been rung, the doors leading from the east and west galleries to the corridor shall be locked, and no one permitted to enter the House.

(5.) That eight tellers shall be appointed by the Moderator, four from the supporters of each of the motions before the House. These Tellers shall take their place in pairs, one on each side, at the four doors of the house, and shall count the numbers passing out at their respective doors.

(6.) That when the Tellers shall have taken their places, the Moderator shall direct the Members to vote by leaving the House at separate doors,—those who support the first motion going out at the right hand, and the supporters of the amendment, or second motion, at the left hand of the chair.

(7.) That the Clerks of Assembly shall prepare printed Alphabetical Lists of Members, and shall appoint Clerks to mark at each door the votes of Members.

(8.) That Members as they pass the door shall give their Christian names and surnames in a distinct voice to the Clerks.

(9.) Thereafter the Members shall pass between the two Tellers, who shall both audibly count the number of each Member as he passes.

(10.) That as soon as the vote shall thus have been taken, the Tellers shall report the state of vote to one of the Clerks of Assembly, who shall write it down, and read it to the House.

(11.) That the report of the Tellers, as read to the House, shall be held as final and conclusive, and not subject to any revision by scrutiny or otherwise.

(12.) That when Members return to the House after the division, they shall be understood as having right to the seats which they occupied before leaving the House to vote.

8. *Dissents.*

That no dissents against any deliverance of the Assembly shall be given in until the matter in which it is pronounced is, for that sederunt, disposed of, the minutes are completed and adjusted, and the House is ready to proceed to other business.

9. *Drafts of Declaratory or Interim Acts and Overtures.*

That the Draft of any proposed Declaratory or Interim Act, as also the Draft of any overture which it is proposed to transmit to Presbyteries for their opinion in terms of the Barrier Act, shall be laid on the table of the Assembly, and printed and circulated among the members, at least one day before a motion be made for the passing of such Declaratory or Interim Act, or for the transmission of such Overture to the Presbyteries of the Church.

10. *Letters addressed to the Moderator.*

That all letters addressed to the Moderator for the purpose of being communicated to the Assembly, shall, in the first instance, be laid before the Business Committee, who shall advise the Moderator as to the way of disposing of them.

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11. *Deputations from other Churches, &c.*

(1.) That deputies from other Churches and from Societies shall, on their arrival, give in their commissions or letters of introduction to the Clerks of Assembly, who shall report the same to the Business Committee, that arrangements may be made for receiving them at a convenient time.

(2.) That in the case of strangers who may be desirous of being introduced to the Assembly and addressing the House, notice thereof shall be conveyed to the Moderator, who shall report the same to the Business Committee, that they may advise in the matter.

12. *Visitation of Synod Records, and Examination of Minutes of Standing Committees.*

(1.) That the Synod Books be called for on the first Saturday of the Assembly, and that a Committee or Committees shall be appointed for visiting the same, who shall fill up a *Schedule* with the information required by the Assembly regarding each Book—said Schedule to be returned on the succeeding Saturday, when the Report of the Visitors shall be called for.

(2.) That a copy of the Report, as sustained by the Assembly, shall be transmitted to the Synod, and be engrossed in their Record.

(3.) That the minutes of Standing Committees be laid annually on the Table of the Assembly, and visited in the same manner as the Synod Books.

13. *Printing of Assembly's Proceedings, &c.*

That each day's proceedings, together with roll of matters to be taken up on the following day, and notices of meetings of Committees, be printed from day to day, and placed in the hands of the members of Assembly.

14. *Minutes.*

That the Minutes adopted at any of the diets be read over and approved of *only* at a morning diet, with the exception of the Minutes adopted on the last day of the Assembly's sittings.

15. *Standing Orders.*

That the Standing Orders be held as read immediately before the appointment of the Business Committee, and that they be printed in the Abstract of the first day's proceedings.

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III. 5.*General Assembly.*

Standing Orders. 1. That the following classification and arrangement of Committees shall be adopted, and the Committees composing the first three classes shall be held as "Standing Committees :"—

## VI. COMMITTEES.

I. *Committees having charge of Funds and Schemes.*

- |                           |                                      |
|---------------------------|--------------------------------------|
| 1. Sustentation Fund.     | 6. Colonial Mission.                 |
| 2. Education Fund.        | 7. Continental Mission.              |
| 3. Home Mission.          | 8. Foreign Mission.                  |
| 4. Highlands and Islands. | 9. Jews' Conversion.                 |
| 5. College.               | 10. Church and Manse Building.       |
| Local Financial Boards.   | 11. Ante-Disruption Ministers' Fund. |

II. *Committees of Business.*

- |                                   |  |
|-----------------------------------|--|
| 12. Assembly Arrangements.        | 17. Election of Professors.            |
| 13. Finance.                      | 18. Equal Dividend Platform.           |
| 14. Publications.                 | 19. Nomination of Standing Committees. |
| 15. Board of Examiners.           |  |
| 16. Distribution of Probationers. |  |

III. *Special Committees.*

- |                                   |                      |
|-----------------------------------|----------------------|
| 20. State of Religion and Morals. | 22. Temperance.      |
| 21. Sabbath Observance.           | 23. Sabbath Schools. |

IV. *Temporary and Occasional Committees, of which there are the following at the present time (Assembly 1885).*

- |  |   |
|--|---|
| 24. Assembly Hall.   | 32. Anent Provision for Widows of Ministers (appointed by Assembly 1879). |
| 25. Records of Disruption Ministers.   | 33. Anent Church Extension Building Fund.                                 |
| 26. Anent Marriage Affinity Bill.  | 34. Law.  |
| 27. Anent Systematic Giving.   | 35. Anent Society for Propagating Christian Knowledge.                    |
| 28. Anent the Youth of the Church.   | 36. Chalmers Lectureship.   |
| 29. Special Commission relative to the Transfer and Sale of School Property. | 37. Anent Debt Extinction.  |
| 30. Anent Legislation regarding Social Purity.                               | 38. Readjustment of Agencies.   |
| 31. Anent Termination of existing connection between Church and State.       | 39. Praise.   |
|  | 40. Anent Efficiency of Ministry.   |

## APPOINTED BY ASSEMBLY 1885.

- |  |  |
|--|--|
| 41. For Printing the Acts of Assembly. | 43. Admission of Continental Ministers and others to Benefits of Widows' Fund. |
| 42. Visitors of Glasgow College.       |  |
| 44. Presbyterian Chaplains in Army.    |  |

2. That Members of each of the Standing Committees shall retire after serving for four years ; but their names shall be subject to removal if they

have failed to attend at least four meetings, in all, of these Committees between June 1st and March 1st. All members retiring, or having their names removed from these Committees, shall be eligible for re-election, except as provided below in case of the Nomination Committee.

3. That a Standing Committee shall be appointed, whose duty it shall be to find out and nominate to the Assembly for appointment suitable persons to serve in the various Committees in room of those who retire ; that this Committee shall consist of fifteen ministers and fifteen elders, of whom not more than two ministers and two elders shall be from any one Synod ; and the members of this Committee shall retire, after serving for four years, and new members be appointed in their room.

4. That in making their selection this Committee shall communicate with the Conveners of the respective Committees, and shall be empowered to name annually such number of ministers and elders as shall secure thirty-six ministers and at least thirty-six elders of their nomination being on the following nine Standing Committees—viz. Sustentation, Education, Home, Highlands and Islands, Colonial, Continental, Foreign, Jews, Church and Manse Building, to be distributed as they may see fit ; but each one so nominated to serve on not fewer than two of said Committees. They shall also transmit to the Assembly names of members for the above nine Committees who have been nominated by the Presbyteries in manner as under, and this Committee shall allocate such to the said Committees, each member to serve on not fewer than two of the nine above named.

(a) Each Presbytery shall be entitled to be represented in the above nine Committees—subject to the appointment of the Assembly—by one minister and one elder for every ten congregations within its bounds. A Presbytery having fewer than ten congregations shall be counted as having ten, and five or over five congregations above any number of tens shall be counted as ten. Members of Committees who have been selected by the Nomination Committee, or who have been proposed in the Assembly, shall not be counted as forming part of the representation of their respective Presbyteries.

(b) The Convener of the Nomination Committee shall each year, in the month of March, intimate to the Presbytery Clerks the number of vacancies (with names of members retiring) that shall occur in the representation of their respective Presbyteries through any cause, and ask them to send him on or before the first day of May the names of those nominated to fill the vacancies.

(c) Each Presbytery shall nominate members to fill such vacancies. Elders may, if necessary, be chosen from any Presbytery in the Church. Should any Presbytery fail to nominate its full complement of representatives, the omission may be supplied by the Nomination Committee.

5. Further, that in making their selection, this Committee shall have regard (1) to fitness for the work of the particular Committee for which the persons are to be nominated ; (2) to as equable a distribution of influence as possible over the Church ; and (3) to economy, as regards the expense connected with attendance at meetings of Committees.

6. That the Report of the Committee on the Nomination of Standing Committees shall be lodged with the Clerks in time to be printed in the "Daily Proceedings" of the first Monday of the Assembly.

7. That no name shall be added to a Standing Committee which has not been given to the Clerks in writing in time to be printed in the "Daily Proceedings" of the second Monday of the Assembly, as issued on Tuesday morning.

APPENDIX  
III. 5.  
General Assembly.  
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APPENDIX  
III. 5.*General Assembly.**Standing Orders.*

8. That when the appointment of a Special Committee has been resolved on, the Committee shall not be nominated till the following day, except in cases the urgency of which does not admit of a day's delay.

9. That the Committee on Publications have charge of all printing authorised by the Assembly.

10. That no Committee shall continue to sit after the Moderator shall have taken the Chair at any diet of the Assembly's meeting.

11. That the minutes of Standing Committees shall be put into the hands of the Clerks on or before the first Saturday of the Assembly, for examination by a Committee of the Assembly.

APPENDIX  
III. 6.*Commission.**Appointment of  
Commission.*

## 6. Commission of Assembly.

## FORM OF ACT APPOINTING COMMISSION.

The General Assembly did and hereby do nominate and appoint a Commission, consisting of all the members of Assembly, with the addition of

named by the Moderator :—TO BE A COMMISSION of this General Assembly, with power to the said Commission or their quorum, which is hereby declared to be any thirty-one or more of their number, whereof sixteen at the least are always to be ministers, to meet and convene at Edinburgh, the second Wednesday of August, at twelve of the clock noon, and thereafter on the third Wednesday of November, and the first Wednesday of March next to come, and oftener, when and where they shall think fit and convenient, and with power to choose their own Moderator: And the General Assembly fully empower the said Commission, or their quorum above mentioned, to cognosce and finally determine as they shall see cause, in every matter referred to them, or which shall be referred to them by or in virtue of any Act or Order of the Assembly; and to do everything contained in, and conform to the instructions given, or to be given, by the Assembly, and to advert to the interests of the Church on every occasion, that the Church do not suffer or sustain any prejudice which they can prevent, as they will be answerable: Provided always that this general clause be not extended to particular affairs or processes before Synods or Presbyteries that are not of universal concern to, or influence upon, the whole Church: And it is hereby appointed that no private processes be determined, except at the stated diets; and that what shall be determined at one diet of the Commission with relation to private causes shall be unalterable by any other diet thereof, and shall stand and continue in force till disapproved of by the General Assembly: And further, the said Commission are hereby empowered to receive any references and appeals that shall be made to them from Synods in matters of doctrine, and ripen such affairs for next General Assembly; and to contribute what they can to the suppression of vice and immorality, and to give all needful advice and assistance to Synods, Presbyteries, and Committees of Assembly upon application to them for that end: And the said Commission are hereby appointed, at each stated meeting, to hold a diet for receiving information on the progress of the Missionary Schemes of the Church, and imploring the Divine blessing thereupon. And the said Commission are hereby strictly prohibited and discharged to meddle in any other matters than what are committed and referred to them as above mentioned: And in all their actings, they are to proceed according to the Acts and Constitution of this Church, and to do nothing contrary thereto or to the prejudices of the same, declaring that, in and for all their actings they shall be accountable to, and censurable by, next General Assembly, as they shall see cause. And this Commission



shall continue and endure until another Commission be appointed; and members are required to attend the diets of the said Commission. And for the better securing a quorum and attendance of members, the General Assembly prohibit the Presbytery of Edinburgh, and all other Presbyteries within fifty miles of Edinburgh, to meet on any of the days appointed for the meeting of this Commission; and such of the members of these Presbyteries as are on the Commission are required all of them to give attendance on the diets thereof. And the General Assembly appoint this their Commission, at the first meeting, to discuss as many of the causes and questions relative to the settlement of vacant churches which are or shall be referred to them by the Assembly as they can overtake: Provided always that when any Presbytery or Synod of this Church shall decline to comply with the sentence of the Commission, or to give the same a full execution, the Commission are hereby prohibited to execute the same by appointing any such corresponding meeting, as has been sometimes the practice, but shall allow the same to lie over to the ensuing Assembly, to which such Presbyteries or Synods shall be answerable for such their conduct, and are hereby appointed to send up with their Commissioners their reasons for the same.

APPENDIX  
III. 6.  
Commission  
—

*Revisal of Minutes of Commission after each Meeting.*

ACT VIII. 1866.—ACT ANENT MINUTES OF THE ORDINARY COMMISSION OF ASSEMBLY.

The General Assembly appoint, that at each meeting of the Ordinary Commission, a Committee of Commission shall be appointed to revise its Minutes before Extracts are given out. Minutes of the  
Commission of  
Assembly.

The Assembly further appoint, that a copy of the Minutes of Commission when revised by its Committee, shall be sent to its Moderator for his signature, that they may be more completely authenticated.

## APPENDIX IV.

## CONSTITUTION AND GOVERNMENT OF COLLEGES.

## APPENDIX IV. ACT V. 1852.—ACT ANENT THE CONSTITUTION AND GOVERNMENT OF THE COLLEGE.

*Colleges.*

Constitution and  
Government of  
the College.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain,—

That the Theological Faculty shall consist in the meantime of four Professors, who shall endeavour to give instructions in Exegetical as well as in Systematic Theology, during all the four sessions of the curriculum.

That the election of Professors shall be vested in the General Assembly, under such regulations as the Assembly may from time to time enact, for securing due deliberation in the discharge of this important duty.

That the ordinary discipline of the College, and the regulation of the Library and Museum, shall be vested in the *Senatus Academicus*, consisting of the Principal and Professors, subject to such rules as the Assembly may lay down according to the laws of the Church.

\* \* \* \* \*

Induction of  
Professors.

That all Professors of Theology shall be inducted into their respective offices by the Presbytery of the bounds, in the same manner in which ministers are inducted into their charges.

## ACT XII. 1838.—ACT ANENT THE APPOINTMENT AND ORDINATION OF PROFESSORS OF THEOLOGY.

\* \* \* \* \*

Ordination of  
Professors.

Whereas, by the law and practice of this National Church, Professors of Theology are declared to be ordinary officers in the Church, and have hitherto been constituted members of the Ecclesiastical Judicatories of the bounds within which the Universities of which they are members are severally included; and whereas it is manifestly expedient, as well as conformable to the principles of this Church, as expressed in the form of Church government approved by the General Assembly in 1645, that every one who has the charge of giving instructions in any of the branches of Theological learning to Students of Divinity, should himself have passed through a complete course of Theological study, and have been not only licensed to preach, but actually ordained as a minister of the Word; and whereas ordination must be the act of the Presbytery, the General Assembly enact and ordain, That if at any time hereafter a Preacher of the Gospel shall be nominated a Professor of Divinity, or Ecclesiastical History, or Biblical Criticism, or Hebrew, in any of the Universities of Scotland, who has not been previously ordained as a minister of a charge in connection with the Church of Scotland, the Presbytery within the bounds of which the University lies shall be bound to take him on trials, for the purpose of ascertaining the proportion of his gifts to the station which he is to occupy,

in the same manner as if he had been appointed to the charge of a congregation within their bounds, in order that, after being found duly qualified for the particular office, he may be ordained as a Minister of the Gospel, previously to his induction to his office in the University.

APPENDIX IV

Colleges.

### *College Committee.*

FROM ACT IX. 1861.—ACT ANENT THE COLLEGE COMMITTEE, AS AMENDED BY ACT II. 1878.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain, That a Select Committee shall be appointed by the General Assembly to consist of twelve ministers and ten elders, of whom five shall retire by rotation from year to year, two only of whom may be re-elected, and reserving the rights competent to all parties according to the laws of the Church; with authority to undertake the general administration of College property and finances, to give advice in cases of difficulty, to originate and prosecute before the Church Courts processes against any of the Professors for heresy or immorality, and to make necessary inquiries for that purpose; to originate also, and prepare for the decision of the General Assembly, proposals for the retirement of Professors disabled by age or infirmity, and for fixing the retiring allowance they are to receive.

College Committee.

ACT VII. 1858.—DECLARATORY ACT ANENT THE CONSTITUTION AND GOVERNMENT OF THE COLLEGES OF THE CHURCH.

The General Assembly hereby declare that the provisions in reference to the discipline of the College, and the powers and jurisdiction of the Select College Committee, contained in Act V. Ass. 1852 [Act IX. 1861], "Anent the constitution and government of the College," apply to the Colleges of this Church in Glasgow and in Aberdeen, as well as to the New College in Edinburgh.

Constitution and Government of the Colleges of the Church.

### *The Several Faculties.*

ACT VI. 1855.—ACT ANENT THEOLOGICAL FACULTY IN THE NEW COLLEGE, EDINBURGH.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain,—

That the Theological Faculty in the New College, Edinburgh, shall consist of five Professors, upon whose classes all Students of Divinity at Edinburgh shall be required to attend.

Theological Faculty in the New College, Edinburgh.

ACT IV. 1856.—ACT ANENT THEOLOGICAL FACULTY AT GLASGOW.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain,—

That the Theological Faculty at Glasgow shall in the meantime consist of four Professors.

Theological Faculty at Glasgow.

ACT II. 1884.—ACT ANENT THE THEOLOGICAL FACULTY OF GLASGOW COLLEGE.

The General Assembly, with consent of a majority of Presbyteries, hereby enact and ordain, That the Theological Faculty of Glasgow shall consist of five Professors instead of four as heretofore—the additional Professor being a Professor of Natural Science, and his salary to be paid from the annual interest of the Special Endowment or Endowments provided for the Chair.

## APPENDIX IV.

## ACT III. 1867.—ACT ANENT CHAIR OF EVANGELISTIC THEOLOGY.

Colleges.

Chair of Evangelistic Theology.

The General Assembly, with consent of a majority of Presbyteries, hereby enact and ordain, That a Professorship of Evangelistic Theology be established in this Church, the Professor to be chosen by the General Assembly of 1867, and to be a member of the Senatus of the New College, Edinburgh, but to lecture also, from time to time, on subjects connected with the duty and privilege of spreading the Gospel throughout the world, in the other Colleges, in conformity with arrangements to be made by the College Committee in concert with the authorities of each of these Colleges; the salary of said Professor to be paid from the annual interest of a sum of £10,000, which has been subscribed by friends of missions, and is now available for the permanent endowment of it.

In passing this Act, the General Assembly think it right to record that they have had communicated to them, on sufficient authority, the wish of the liberal founders of the Professorship, to the following effect—that without prejudice to the free discretion of the Church in filling up vacancies, regard should be had to the peculiar character of this Chair, as one that must very largely deal with the subject of Foreign Missions; and that if there should be any missionary or retired missionary, thoroughly qualified in the judgment of the Church at large, whose services might be secured, he should have a preference over other candidates.

## ACT I. 1870.—ACT ANENT THE CHAIR OF EVANGELISTIC THEOLOGY.

Chair of Evangelistic Theology.

The General Assembly, with consent of a majority of Presbyteries, did, and hereby do, enact and ordain, That hereafter an amount of attendance on the Class of Evangelistic Theology, for short periods during the years of the appointed course of study at the Divinity Hall, not exceeding at any of the Colleges two months during two several Sessions, or of four months during one Session, shall be obligatory on the part of all Students of Theology, and a condition of their obtaining license; the most suitable sessions and hours of attendance being left to be arranged by the Senatus of the several Colleges.

## ACT VII. 1875.—ANENT COLLEGE MATTERS.

Fourth Professor at Aberdeen.

The Assembly did and hereby do record the high gratification it has afforded them to receive the announcement that the sum of £10,000 has been subscribed for the endowment of a fourth Chair in the College at Aberdeen; they record their thanks to the subscribers to the endowment: they thankfully accept the offered gift, and resolve to institute a fourth Chair at Aberdeen.

## ACT IX. 1878.—ACT ANENT LECTURESHIP IN NATURAL SCIENCE AND THEOLOGY AT ABERDEEN.

Lectureship on Natural Science at Aberdeen.

With reference to the teaching of Natural Science in Aberdeen, the General Assembly resolve, in conformity with the deliverance of 1871, and with the provisions of the Banchory Bequest, to institute a Lectureship on Natural Science and Theology, in connection with the Aberdeen College, to be called the “Thomson Lectureship,” and the Assembly now institute such a Lectureship accordingly, declaring that attendance on the Lectures shall be imperative on the students at Aberdeen as in the case of Edinburgh and Glasgow. Further, the Assembly approve generally of the suggestions made by the Senatus in their minute of 12th April last, and authorise said

Senatus, in concurrence with the College Committee, to appoint a Lecturer for a period of not more than four years, reserving power to the Assembly thereafter to reconsider the matter.

APPENDIX IV.  
Colleges.

### *Election of Professors.*

#### ACT X. 1859.—ACT ANENT THE ELECTION OF PROFESSORS.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain—

Election of Professors.

1. That the duty of considering the claims of Candidates for the vacant Professorships shall be intrusted to a Committee to be appointed from year to year by the General Assembly, which Committee shall include at least one member of each Synod of the Church, and shall consist of an equal number of ministers and elders.

2. That it shall be in the power of Presbyteries and Synods, when a vacancy takes place, to recommend one or more names to the consideration of the Committee; and that the Committee shall be required to consider the claims of the Candidates so recommended.

3. That the Committee shall present a Report to the General Assembly recommending a person for election to the vacant Professorship, or if they shall think it better so to do, submitting the names of two or more persons as candidates to the Assembly; the Assembly, in appointing to the chair, not being limited to the individual or individuals recommended by the Committee.

### *Representation of Colleges.*

#### ACT VIII. 1859.—ACT ANENT THE REPRESENTATION OF COLLEGES.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain,—

Representation of Colleges.

That hereafter Professors and Colleges shall have no separate rights of representation in the General Assembly.

### *Local Boards.*

#### ACT IX. 1869.—APPOINTMENT OF COLLEGE LOCAL BOARDS AND ANENT CLOSING OF COLLEGE SESSION.

The Assembly resolve that a Local Board be appointed in connection with each of the three Colleges at Edinburgh, Glasgow, and Aberdeen, for the management of their financial affairs; that such Boards shall be empowered to receive and disburse the Funds accruing to the several Colleges in conformity with the appointments of the General Assembly, and with the specific destination of particular endowments; that it shall belong to such Boards, with the concurrence of the General Trustees of the Church, to advise and determine respecting investments of money for College purposes, and to see that the same be properly executed; also, with consent of the College Committee, to make such alterations and repairs as may be required from time to time on the College buildings; that these Financial Boards shall be subject to the College Committee, to which they shall present annually a statement of accounts to be laid before the General Assembly.

College Local Boards.

Each Board shall have a secretary and treasurer, and shall keep a record of its proceedings,—three to be a quorum,—such records to be annually

PPENDIX IV. ingly, undertake to carry out the regulations of the Declaration of Trust, and resolve to nominate, at a future diet of this Assembly, the Ministers and Elders to be appointed by the Assembly as members of Committee.

Colleges.

#### EXTRACT FROM TRUST-DEED BY MR. MACFIE.

I, Robert Macfie, Esq. of Airds and Oban, considering that I feel deeply interested in the maintenance of the principles of the Free Church of Scotland, have transferred and made over to the General Trustees of the said Church, the sum of £5000 sterling, contained in Mortgages or Debentures of the Harbour Trust of the town of Greenock, to be held by them in trust for the purpose of founding a Lectureship in memory of the late Thomas Chalmers, D.D., LL.D., first Principal of the New College, Edinburgh, and Professor of Theology therein, with and under the following conditions, namely:—1. The Lectureship shall bear the name and be called “The Chalmers Lectureship.” 2. The Lecturer shall be a Minister or Professor of the Free Church of Scotland [or any other Minister or Professor holding the views of the Free Church on the Headship of Christ over His Church and its Independent Spiritual Jurisdiction], and shall hold the appointment for four years, and shall be entitled for the period of his holding the appointment to one-half of the income of the endowment, as declared by the General Trustees. 3. The subject of Lecture shall be the Headship of Christ over His Church, and its Independent Spiritual Jurisdiction [it being in the power of the Committee, with concurrence of the General Assembly, occasionally to appoint a Lecturer to deal with some other aspect of the Reformation doctrine of the Church and Kingdom of Christ]. 4. The Lecturer shall be bound to deliver publicly a course of not fewer than six lectures continuously, at the rate of two lectures weekly, at such time, and under such arrangements as the Committee hereinafter pointed out may fix, as follows, viz.:—In Edinburgh, the first year he holds the Lectureship; in Glasgow, the same lectures, the following year; and the third year in Aberdeen, or in such other order as the Committee may arrange. 5. The Lecturer shall be bound within a year to print and publish, at his own risk, not fewer than 1500 copies of the Lectures after their final delivery, and to deposit three copies of the same in the libraries of the Free Church Colleges in Edinburgh, Glasgow, and Aberdeen; the form of the publication shall be regulated by the Committee hereinafter pointed out, and the copyright shall belong to the Free Church of Scotland. 6. One-half of the balance of the income of the said Endowment, after paying the Lecturer, and the expense attending the delivery of the Lectures, shall be laid out in furnishing with a copy of the Lectures all the Ministers and Missionaries of the Free Church of Scotland, and the remainder of the proceeds of the income of the Endowment, if any, shall be employed in the publication of a cheap edition of the Lectures, to promote their circulation among the people. (Act XII. 1884.) [And if any balance still remains, the same shall be applied by the Committee in giving prizes to Students attending the Colleges of the Free Church for Essays on the “Headship of Christ over His Church and its Independent Spiritual Jurisdiction;” these prizes being, if the funds allow, one of £20, two of £10, and two of £5.] 7. The management of the Lectureship shall be in the hands of a Committee consisting of the following *ex officio* members, namely, the Moderator and the Principal Clerks of the General Assembly of the Free Church of Scotland and the Principals of the Colleges of the said Free Church at Edinburgh, Glasgow, and Aberdeen, and of four Ministers and four Elders to be appointed by the General Assembly of the said Free Church of Scotland, of which one Minister and one Elder shall retire annually, their places being filled by the General Assembly from year to year,



and of myself, the said Robert Macfie, or such person as I may nominate to be my successor; the Senior Principal Clerk of the General Assembly shall be Convener of the said Committee. 8. The duties of the Committee shall be the following:—(1) To appoint a lecturer (excepting the first), the appointment to be made at the [commencement] of the Session of College immediately preceding the termination of the previous lecturer's appointment; (2) To arrange details as to delivery of the lectures, and to take charge of any additional income and expenditure of an incidental kind that may be connected therewith; it being understood that the obligation upon the lecturer is simply to deliver the course of lectures free of expense to himself. 9. In the event of the theological curriculum being changed so as to extend over only three years, the Committee shall have power to restrict the Lectureship to three years; and in that case they shall make such alterations as to the times and places and delivery of the lectures, and their publication afterwards, as they may judge necessary. 10. The Committee shall be at liberty, on the expiry of eight years, to make any alteration that experience may suggest as desirable in the details of this plan, provided such alterations shall be approved of by not fewer than eight members of the Committee. And 11, I hereby nominate and appoint the Rev. Sir Henry Wellwood Moncreiff, Bart., D.D., to be the first Lecturer. And I declare that the said General Trustees of the Free Church of Scotland shall have full power of investing and reinvesting the said sum, on such securities, heritable or personal, as they may consider proper.

APPENDIX IV

Colleges.

(Act XII. 1884.)

## APPENDIX V.

## STUDENTS AND PROBATIONERS.

*Licensing of Students as Probationers, etc.*

ACT XI. 1860.—DECLARATORY ACT ANENT THE TRIALS OF STUDENTS AND  
 LICENSING OF PROBATIONERS, EMBRACING THE PROVISIONS CONTAINED  
 IN ALL PRECEDING ACTS OF ASSEMBLY WHICH HAVE NOT BEEN REPEALED ;  
 [AND AS AMENDED BY SUBSEQUENT ACTS.]

APPENDIX V.  
 ———  
*Students and  
 Probationers.*

Trials of Students  
 1813, Act VIII.

The General Assembly having taken under their serious consideration the great danger to which the interests of religion and of this Church may be exposed by licensing any to preach the Gospel who are not duly qualified for that important trust, do hereby enact and ordain that, in all time coming, the following regulations shall be strictly observed :—

*I. Preliminary Studies before entering the Divinity Hall.*

1813, Act VIII.

It is hereby enacted that no student shall be entered upon the roll of any Professor of Divinity, unless he shall produce to the said Professor a diploma of Master of Arts, or certificates from the several Professors under whom he had studied, showing that he has gone through a full academical curriculum of Literature and Philosophy, and has acquired a knowledge of the elements of the Hebrew language.

1852, Act IV.

*II. Preliminary Examinations and Certificates.*

1827, Act VII.

1. It is also hereby enacted, that no student shall be entered upon the roll of any Professor of Divinity, unless he shall produce to the said Professor—  
 (a.) A certificate that he has been examined by the Presbytery within the bounds of which he resides upon Literature, Science and Philosophy, particularly upon Greek and Latin.

1837, Act IX.

(b.) A certificate that he has passed, in a satisfactory manner, an examination by said Presbytery upon his knowledge of the Christian religion, as it is exhibited in the Catechetical Standards of the Church.

1813, Act VIII.

(c.) A certificate from the Minister of the Congregation which he usually attends, or, in his absence, or during a vacancy in said Congregation, from some neighbouring Minister, bearing that his character is suitable to his views.

1881, Act I.

2. Every student about to enter the Divinity Hall for the first time, shall be examined upon his previous course of study, by a Board of Examiners, appointed by the General Assembly, and shall produce a certificate of his

having passed that examination satisfactorily, to the Professor or Professors under whom he desires to study before his enrolment as a regular student in the class of said Professors shall be competent.

3. Students not resident within the bounds of the Free Church of Scotland, who have finished a course of Literature and Philosophy in any of the Universities of Scotland, may, previous to their enrolment as students of Divinity, be examined by the Presbytery within whose bounds the University at which they have studied is situated, either at the end of the last session of their course of Philosophy, or immediately before the commencement of their first session in Divinity.

4. Students shall be examined by the same Presbytery throughout the whole course of their attendance at the Divinity Hall, or be regularly transferred from one Presbytery to another; and no Presbytery shall examine any student with a view to his entering the Divinity Hall for any session, unless he produce an Extract Minute of the Presbytery by which he was last examined, certifying that the Presbytery was satisfied with his previous examination.

APPENDIX V.

*Students and Probationers.*

1835, Act XV.

1852, Act III.

### III. *Attendance at the Divinity Hall, Examinations, and Trials.*

The General Assembly do likewise hereby ordain :

1. That the ordinary theological curriculum shall consist of four years' regular attendance upon the Divinity Hall. 1852, Act IV.

2. That in no case shall less than two years' regular attendance be sustained; that exemption from four years' regular attendance shall be granted to particular students only by a Board appointed by the General Assembly; that enrolment in two different sessions shall be required for each session, for which exemption from regular attendance may be granted; and that all students exempted shall be yearly examined upon books and subjects prescribed to them. 1852, Act IV.

3. That, inasmuch as a class of Natural Science exists in the New College, Edinburgh, for which no additional charge is made, attendance upon that class for one session is required of all theological students pursuing their theological course in Edinburgh. 1852, Act IV

4. That every student of divinity shall be examined by the Presbytery within whose bounds he resides, not only previous to his being first enrolled as a student of divinity, but every year of his attendance at the Hall; and that he be required to produce to the Professor of Divinity every session of his attendance at the Hall, a certificate from the Presbytery of his having been examined by them on the progress made by him in his studies, and of the Presbytery's satisfaction with the same, as well as a certificate of his good moral character from the minister under whose pastoral charge he is, before he can be enrolled. 1837, Act VIII.

5. That students shall be enrolled by the Professors during the several years of their respective courses, and deliver in the Divinity Hall, in the manner hereinafter provided, an exegesis in Latin on some controverted head in divinity, a homily in English, an exercise and addition, a critical Hebrew exercise on some portion of the original text of the Old Testament, a lecture on some large portion of Scripture, and a popular sermon, together with such other exercises as the Professors shall think proper to prescribe. 1813, Act VIII.

6. Professors of Divinity are required to attend, as much as circumstances may permit, to the conduct of such students as are under their care; and as far as they find it practicable to insist that every student shall deliver his first discourse some time during his second session at the latest, and the remainder of his discourses at such periods as may enable him to deliver the whole of them before the end of January of the last session of his course. 1813, Act VIII.

## APPENDIX V.

*Students and  
Probationers.*

1860, Act V.

7. That if a student desires the time spent by him in a foreign university to be reckoned part of his curriculum, the following conditions shall be observed, viz. :—

(a.) He shall produce beforehand to the Presbytery with which he is connected, evidence that he has completed two sessions of attendance at one or more of the Divinity Halls of this Church, and that his attendance and progress in his studies have been satisfactory to the Professors under whom he has studied.

(b.) He shall satisfy the Presbytery by suitable evidence, including a certificate under the hand of a professional teacher, that he has made such proficiency in the language used at the University in which he intends to study, as will enable him to understand and profit by the lectures and other exercises of the classes.

(c.) He shall satisfy the Presbytery in regard to the classes he means to attend, and also in regard to the congregation with which he means to connect himself, as well as in regard to the introduction which he has, or is likely to have, to the Professors of such classes, and the pastor or pastors of said congregation.

(d.) He shall, immediately upon his return to this country, produce to the the Presbytery satisfying evidence, including certificates under the hands of the Professors whose classes he has attended, and the pastor or pastors with whose congregation or congregations he has been connected, that his attendance in the University has been regular, his diligence satisfactory, and his conduct, so far as may be known, suitable and becoming; and he shall moreover submit to an examination by the Presbytery on the branches of study in which he has been engaged.\*

IV. *Application to the Presbytery to be taken on Trials for License.*

The General Assembly further enact and declare :—

1813, Act VIII

1. That a student is entitled to apply to his Professor for his certificates that he may be proposed for trials, and that the preliminary steps may be taken by the Presbytery during the currency of the last session of his course, as above described; with this limitation, that if the said last session is to be claimed as a session of regular attendance, he shall, towards the conclusion thereof, obtain a new certificate of his attendance during its currency, and produce the same to the Presbytery or Synod.

\* At the Assembly 1857 the following recommendations were enacted :—

1st, With a view to the more effectual training of students of theology in the knowledge and interpretation of Scripture for popular use, the Assembly recommend to the present and future Professors in all our Colleges to divide amongst them the several books of Scripture according to their respective departments, each Professor charging himself with the work of training his own students therein, using the English version, and that this exercise be in addition to any exegetical study of Scripture under the Professors specially appointed for that end.

2d, As not only a learned but practical training for students is desirable, as in other learned professions, the Assembly hereby authorize and require the Home Mission Committee to make an experiment as to the best mode of securing this benefit to students that have completed the fourth year of their attendance at the Divinity Hall, by associating a few such students with as many pastors favourably situated, whose duty it shall be to give them practical and personal training in the entire range of the work and duties of the preacher and pastor; and the Assembly further authorize the Home Mission Committee to grant such pecuniary remuneration to both parties as they may deem necessary for conducting the experiment under the most favourable conditions.

3d, As the knowledge of the classics of our own country, and habits of speaking and writing formed thereon, are of primary importance to public instructors, the Assembly recommend the Board of Examination to include English literature and composition amongst their subjects of examination of all entrants to the Divinity Hall, and recommend Presbyteries to examine from year to year thereafter on certain prescribed English classics in prose and verse.

4th, The Assembly having learned that increased facilities exist in connexion with our Colleges for the training of students in the art of reading and speaking, instruct the Professors to do all that is in their power to induce all students to avail themselves of these, and that at the earliest stage of their attendance at the Divinity Hall; and the Assembly hereby express their hope that Presbyteries, in conducting the trials of students, will have regard to their qualifications in this particular.

2. When a Student is proposed to any Presbytery, in order to be taken upon trials, the Presbytery shall be alone, and the motion for that purpose shall lie upon the table till their next ordinary meeting. In the meantime, the Presbytery shall appoint the member by whom the student has been proposed to lay before the said meeting the certificate or certificates in favour of the student that are hereinafter specified; to desire him to attend the same; and to inform him that, previously to the meeting, he ought, so far as circumstances may permit, to wait on such ministers of the Presbytery as have not formerly had an opportunity of conversing with him in private.

3. When the time appointed for considering the motion is arrived, the Presbytery shall strictly observe the following regulations:—

(a.) The Presbytery shall be alone while they are employed in discussing the several preliminaries respecting students who are proposed for trials. 1813, Act VIII.

(b.) They shall require satisfying evidence that every student who is proposed for that purpose has completed the twenty-first year of his age. 1813, Act VIII.

(c.) No student shall be admitted to trial unless he produces to the Presbytery a certificate or certificates from the Professor or Professors of Divinity under whose tuition he has studied, bearing that he has prosecuted his studies and delivered his discourses in the manner prescribed by this Act; and that his conduct, as far as it consists with the knowledge of the said Professor or Professors, has been in every respect suitable to his views in life; and the Presbytery shall in their minutes record that such certificates were produced and read, specifying the classes attended, the names of the Professors by whom such certificates were granted; the number and dates of the sessions during which attendance had been given, whether attendance was regular or partial, the nature of the discourses delivered, and whether said discourses were sustained; and whether the character and conduct of such student or students were in all respects suitable to their views towards the holy ministry. And it is hereby enacted and declared that the student, having lodged such certificate or certificates, shall be entitled to obtain extracts of the minute above prescribed, if demanded. 1813, Act VIII.

(d.) No Presbytery shall receive any student upon trials unless they are satisfied that he is of good report; sound in his principles, pious, sober, grave, and prudent in his behaviour; of a peaceable disposition; and that he holds the principles of this Church, as to the independence of the Church, and the duties of nations and their rulers in reference to true religion and the Church of Christ. And that the Presbytery may proceed with all due caution in a matter of such peculiar importance, they shall not agree to the motion on behalf of the student unless his residence during the year preceding has been chiefly within their bounds; or he shall produce sufficient testimonials from the Presbytery in whose bounds his residence has chiefly been during that term, bearing that his character is such as is described in the immediately preceding sentence of this paragraph, and recommending him in those respects to the Presbytery before whom the proposal is made, as a proper person to be entered upon trials. 1846, Act XII.

(e.) If, after these preliminary steps have been taken, the Presbytery shall be of opinion that the Student is duly qualified in these several particulars, they shall record this opinion in their Minutes, and order their Clerk to write letters to the several Presbyteries within the bounds of the Provincial Synod, two calendar months at least before the meeting of the same, informing them of the Presbytery's intention to take the Student upon trials, and bearing that the certificate or certificates in his favour, which are required by this Act, have been regularly laid before them. But it is hereby provided, that within the bounds of such Synods as meet only once a year, a student may be entitled to have these circular letters written half a year sooner than would be otherwise competent. 1813, Act VIII.

(f.) If, after these preliminary steps have been taken, the Presbytery shall be of opinion that the Student is duly qualified in these several particulars, they shall record this opinion in their Minutes, and order their Clerk to write letters to the several Presbyteries within the bounds of the Provincial Synod, two calendar months at least before the meeting of the same, informing them of the Presbytery's intention to take the Student upon trials, and bearing that the certificate or certificates in his favour, which are required by this Act, have been regularly laid before them. But it is hereby provided, that within the bounds of such Synods as meet only once a year, a student may be entitled to have these circular letters written half a year sooner than would be otherwise competent.

## APPENDIX V.

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1860, Act V.

7. That if a student desires the time spent by him in a foreign university to be reckoned part of his curriculum, the following conditions shall be observed, viz :—

(a.) He shall produce beforehand to the Presbytery with which he is connected, evidence that he has completed two sessions of attendance at one or more of the Divinity Halls of this Church, and that his attendance and progress in his studies have been satisfactory to the Professors under whom he has studied.

(b.) He shall satisfy the Presbytery by suitable evidence, including a certificate under the hand of a professional teacher, that he has made such proficiency in the language used at the University in which he intends to study, as will enable him to understand and profit by the lectures and other exercises of the classes.

(c.) He shall satisfy the Presbytery in regard to the classes he means to attend, and also in regard to the congregation with which he means to connect himself, as well as in regard to the introduction which he has, or is likely to have, to the Professors of such classes, and the pastor or pastors of said congregation.

(d.) He shall, immediately upon his return to this country, produce to the Presbytery satisfying evidence, including certificates under the hands of the Professors whose classes he has attended, and the pastor or pastors with whose congregation or congregations he has been connected, that his attendance in the University has been regular, his diligence satisfactory, and his conduct, so far as may be known, suitable and becoming; and he shall moreover submit to an examination by the Presbytery on the branches of study in which he has been engaged.\*

#### IV. *Application to the Presbytery to be taken on Trials for License.*

The General Assembly further enact and declare :—

1813, Act VIII

1. That a student is entitled to apply to his Professor for his certificates that he may be proposed for trials, and that the preliminary steps may be taken by the Presbytery during the currency of the last session of his course, as above described; with this limitation, that if the said last session is to be claimed as a session of regular attendance, he shall, towards the conclusion thereof, obtain a new certificate of his attendance during its currency, and produce the same to the Presbytery or Synod.

\* At the Assembly 1857 the following recommendations were enacted :—

1st, With a view to the more effectual training of students of theology in the knowledge and interpretation of Scripture for popular use, the Assembly recommend to the present and future Professors in all our Colleges to divide amongst them the several books of Scripture according to their respective departments, each Professor charging himself with the work of training his own students therein, using the English version, and that this exercise be in addition to any exegetical study of Scripture under the Professors specially appointed for that end.

2d, As not only a learned but practical training for students is desirable, as in other learned professions, the Assembly hereby authorize and require the Home Mission Committee to make an experiment as to the best mode of securing this benefit to students that have completed the fourth year of their attendance at the Divinity Hall, by associating a few such students with as many pastors favourably situated, whose duty it shall be to give them practical and personal training in the entire range of the work and duties of the preacher and pastor; and the Assembly further authorize the Home Mission Committee to grant such pecuniary remuneration to both parties as they may deem necessary for conducting the experiment under the most favourable conditions.

3d, As the knowledge of the classics of our own country, and habits of speaking and writing formed thereon, are of primary importance to public instructors, the Assembly recommend the Board of Examination to include English literature and composition amongst their subjects of examination of all entrants to the Divinity Hall, and recommend Presbyteries to examine from year to year thereafter on certain prescribed English classics in prose and verse.

4th, The Assembly having learned that increased facilities exist in connexion with our Colleges for the training of students in the art of reading and speaking, instruct the Professors to do all that is in their power to induce all students to avail themselves of these, and that at the earliest stage of their attendance at the Divinity Hall; and the Assembly hereby express their hope that Presbyteries, in conducting the trials of students, will have regard to their qualifications in this particular.



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Probationers.*

1813, Act VIII.

2. When a Student is proposed to any Presbytery, in order to be taken upon trials, the Presbytery shall be alone, and the motion for that purpose shall lie upon the table till their next ordinary meeting. In the meantime, the Presbytery shall appoint the member by whom the student has been proposed to lay before the said meeting the certificate or certificates in favour of the student that are hereinafter specified; to desire him to attend the same; and to inform him that, previously to the meeting, he ought, so far as circumstances may permit, to wait on such ministers of the Presbytery as have not formerly had an opportunity of conversing with him in private.

3. When the time appointed for considering the motion is arrived, the Presbytery shall strictly observe the following regulations:—

(a.) The Presbytery shall be alone while they are employed in discussing the several preliminaries respecting students who are proposed for trials. 1813, Act VIII.

(b.) They shall require satisfying evidence that every student who is proposed for that purpose has completed the twenty-first year of his age. 1813, Act VIII.

(c.) No student shall be admitted to trial unless he produces to the Presbytery a certificate or certificates from the Professor or Professors of Divinity under whose tuition he has studied, bearing that he has prosecuted his studies and delivered his discourses in the manner prescribed by this Act; and that his conduct, as far as it consists with the knowledge of the said Professor or Professors, has been in every respect suitable to his views in life; and the Presbytery shall in their minutes record that such certificates were produced and read, specifying the classes attended, the names of the Professors by whom such certificates were granted; the number and dates of the sessions during which attendance had been given, whether attendance was regular or partial, the nature of the discourses delivered, and whether said discourses were sustained; and whether the character and conduct of such student or students were in all respects suitable to their views towards the holy ministry. And it is hereby enacted and declared that the student, having lodged such certificate or certificates, shall be entitled to obtain extracts of the minute above prescribed, if demanded. 1813, Act VIII.

(d.) No Presbytery shall receive any student upon trials unless they are satisfied that he is of good report; sound in his principles, pious, sober, grave, and prudent in his behaviour; of a peaceable disposition; and that he holds the principles of this Church, as to the independence of the Church, and the duties of nations and their rulers in reference to true religion and the Church of Christ. And that the Presbytery may proceed with all due caution in a matter of such peculiar importance, they shall not agree to the motion on behalf of the student unless his residence during the year preceding has been chiefly within their bounds; or he shall produce sufficient testimonials from the Presbytery in whose bounds his residence has chiefly been during that term, bearing that his character is such as is described in the immediately preceding sentence of this paragraph, and recommending him in those respects to the Presbytery before whom the proposal is made, as a proper person to be entered upon trials. 1846, Act XII  
1813, Act VIII.

(e.) If, after these preliminary steps have been taken, the Presbytery shall be of opinion that the Student is duly qualified in these several particulars, they shall record this opinion in their Minutes, and order their Clerk to write letters to the several Presbyteries within the bounds of the Provincial Synod, two calendar months at least before the meeting of the same, informing them of the Presbytery's intention to take the Student upon trials, and bearing that the certificate or certificates in his favour, which are required by this Act, have been regularly laid before them. But it is hereby provided, that within the bounds of such Synods as meet only once a year, a student may be entitled to have these circular letters written half a year sooner than would be otherwise competent. 1813, Act VIII.

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1813, Act VIII.

(f.) If a student have studied, either in whole or in part, in Protestant Universities which are not within the bounds of this Church, he shall, when he is proposed to any Presbytery for trials, be required to produce satisfying testimonials from the Professors of Divinity in said Universities; and the time which these Professors shall certify to have been employed by him in studying Divinity under their tuition shall be computed in the same manner as if he had prosecuted his studies in any of the Colleges within the bounds of this Church. Always under the limitations prescribed in III. sect. 7. of this Act; and provided also that no student in such circumstances shall be proposed for trials sooner than six calendar months after his arrival in Scotland.

*V. Application to the Provincial Synod.*

1813, Act VIII.

1. The General Assembly ordain, that if a Presbytery propose to take a student upon trials, and have, with that view, written the circular letters, as is herein required, public intimation thereof shall be made at some diet of the next meeting of the Provincial Synod, which shall not be the last diet thereof.

1854, Act X.

2. The Presbytery Clerk is hereby required to transmit to the Synod Clerk an extract of the minute containing the record of the particulars relative to the students' certificates directed to be recorded, IV. 3. (c), in order that the same may be produced at this diet of Synod, it being provided that the certificates themselves shall also be produced and laid on the table, and that it shall be competent to the Synod to remit said certificates to a Committee of their number, to examine and report upon them. If, in any case, the Presbytery Clerk shall fail to transmit the extract above mentioned, the student may produce to the Synod, by himself or by any member of the Court, the extract which, by this Act, he is entitled to obtain.

1813, Act VIII.

1813, Act VIII.

3. It is also hereby ordained, that, at some subsequent diet of the Synod, particular inquiry shall be made whether any of the members of the Court has any objection to offer against the student being entered upon trials, and that the Synod then, taking into consideration the extract produced, and the whole of the case, shall judge of the expediency of allowing the Presbytery to admit the student on trials.

*VI. Trials by the Presbytery.*

1813, Act VIII.

1. If the Synod shall allow the student to be taken upon trials, the Presbytery shall proceed therein with all convenient speed; and the Assembly appoint the following trials to be taken of the student, and in order herein mentioned: Provided always, that no part of the examination of a student shall be commenced by a Presbytery until the last session of his theological course shall have been concluded, and until he shall produce to the Presbytery a certificate of his having passed satisfactorily an examination upon his previous studies, by a Board of Examination appointed by the General Assembly.

1852, Act IV

1859, Act IX.

1859, Act IX.

(a.) The Presbytery shall examine the student, strictly and privately, on his knowledge of the Greek and Latin languages, and of Philosophy and Theology.

1813, Act VIII.

(b.) The following written exercises on subjects prescribed by the Presbytery shall be delivered:—(1.) An Exegesis in Latin, on some controverted head in Divinity; (2.) A Homily in English; (3.) An Exercise and Addition; (4.) A lecture on some large portion of Scripture; (5.) A popular Sermon. It being understood that, if the Presbytery see cause, they may examine the student upon the subject of these several discourses.

1859, Act IX.

1813, Act VIII.

1859, Act IX.

(c.) Catechetic trials on Divinity, Chronology, and Church History, and a trial on the Hebrew and Greek languages.

2. The student having gone through the several trials above mentioned, the Presbytery are ordained to proceed in the following order :—

(a.) They shall deliberately and seriously take a conjunct view of the whole trials, and if they shall be of opinion that the student is not properly qualified to perform the duties incumbent upon a preacher of the gospel, they shall by no means grant him a license in his present circumstances.

(b.) If upon this review of his trials, the Presbytery are fully satisfied therewith, they shall record this opinion in their minutes.

(c.) The Presbytery shall then propose to the student the questions that are appointed to be put to all who pass trials, by Act XII., Assembly 1846, and require him to subscribe the Formula which is prescribed by said Act. And the General Assembly strictly prohibit all Presbyteries from licensing any student to preach the gospel, who shall not give explicit and satisfying answers to these questions, and subscribe the said Formula.

(d.) The Presbytery shall appoint their Moderator to license the student to preach the gospel, and order their Clerk to furnish him with an extract of his license.

3. The General Assembly enact and declare, that at the request of the student, it shall be competent to any Presbytery to transfer the receiving of the trials, or any part thereof, certifying to the Presbytery to which the transference is to be made that the various preliminary steps have been taken according to the directions of this Act ; and that such parts of the public and private trials as have been already gone through have been received with approbation.

#### VII. *Publication of this Act.*

For the better observance of this Act the General Assembly ordain :

1st, That it shall be printed among their other printed Acts ; 2d, That it shall be printed by itself in some convenient form ; 3d, That a copy of this separate edition shall be transmitted to each Professor of Divinity in the Colleges of the Free Church, and that the said Professors shall read the same in their respective Halls, once, at least, during every session, and at such times as they have reason to expect the attendance of the greatest number of students for that session; and *lastly*, That a copy of the same edition shall likewise be transmitted to the Clerks of each Synod and Presbytery within the bounds of this Church ; and that the said Clerks shall keep the same along with their minutes, and bring it up to each meeting of their respective Courts, for the use of their members.

#### ACT VI. 1864.—ACT ANENT ADMISSION OF STUDENTS TO THE THEOLOGICAL HALLS.

The General Assembly hereby instruct the Ministers of this Church, that before granting a certificate to any Student previously to admission to any one of our Theological Halls, the Minister shall consult with the Elders respecting the character borne by the student in the congregation, and shall embody in the certificate such expression of the results of that consultation as he may judge useful and prudent.

The General Assembly hereby agree to receive Students who have taken a degree in Arts in an English or Irish University, equivalent to the degree of M.A. in Scotland, as standing on the same footing with Students who have taken said degree in any of the Universities in Scotland, and the Assembly extend the same privileges to Students who have become entitled to the degree by passing the usual examination, though it has not been actually conferred.

Students and Probationers.

1813, Act VIII.

1813, Act VIII.

1813, Act VIII.

1846, Act XII.

1813, Act VIII.

1813, Act VIII.

1813, Act VIII.

Admission of Students to the Theological Halls

## APPENDIX V.

*Students and  
Probationers.**Qualifications of Students in Literature and Philosophy before  
entering a Theological Hall.*

MINUTE OF ASSEMBLY, 27th MAY 1863.

Examination of  
Students.

The Assembly authorise the (Examination) Board to accept a Degree of Master of Arts in place of the Examination by the Board in those branches of Literature and Philosophy which are embraced in the Examination for the Degrees.

## ACT II. 1873.—ANENT THE TRIAL OF STUDENTS.

Trial of Students.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain :—

1. That from and after 1st November 1877, Students entering the Divinity Hall at any of the Colleges of the Free Church, shall be required to produce evidence that they have passed the classical part of the University Examination for the Degree of Arts ; provided always that the General Assembly, or its Commission, if they see fit, may dispense with this requirement in special cases, for cause shown.

2. That Students entering the Divinity Hall before the said 1st November 1877, shall have their proficiency in Latin tested according to such arrangements as shall be sanctioned for that purpose by the General Assembly of 1873.

3. That the exegesis or controversial discourse at present required of every student during his curriculum, and also of candidates for licence or ordination, may hereafter, in the option of the said student or candidate, be written in the English language.

*Employment and Distribution of Probationers.*

## ACT I. 1872.—ANENT DISTRIBUTION OF PROBATIONERS.

Distribution of  
Probationers.

The General Assembly, with consent of a majority of Presbyteries, hereby enact and ordain, with reference to the Distribution of Probationers :—

1. That Clerks of Presbyteries shall send the names and addresses of all who may be licensed by them as Probationers, with dates of licence, within one week thereafter, to a Committee on the Distribution of Probationers, to be appointed annually by the General Assembly, and that the Committee shall prepare as complete a register as possible of all the Probationers of the Free Church, according to date of licence.

2. That Probationers who have been licensed before the close of 1861 be not hereafter included in the list of those sent in rotation to officiate in vacant Congregations ; that in each year subsequent to the passing of this Act, licentiates of the two earliest years of which any licentiate remains on the list shall be removed from it, until none be on it who have been licensed more than six years, and that thereafter no one shall remain on it for a longer period.

3. That when a Probationer shall decline Home Mission Work on the invitation of the Home Mission Committee, unless he can show adequate cause for so declining, his name shall be struck off the list for supplying vacancies.

4. That Clerks of Presbyteries shall send intimation to the Committee of every vacancy occurring in a Congregation within their bounds, as well as of every Congregation taking steps towards calling a Colleague and Successor, along with the name of the Moderator of Session and the Session Clerk or other office-bearer in the vacant congregation, with whom correspondence may be carried on.

5. That when a vacant congregation shall be prepared, according to the terms of the Act of Assembly 1859, to elect a minister at the first meeting after the vacancy has taken place, no supply shall be given from this Committee; but if not so prepared, they shall, until they have elected a minister, receive supplies, by appointment of Committee, at least every alternate Sabbath, the other Sabbaths being reserved for the Presbytery, or such ministers or probationers as the Congregation may wish to hear; and that so soon as an election takes place, the Committee be informed, so as to stop further supplies. And the same rule shall apply to the election of Colleagues and Successors, and also to elections in Charges sanctioned which may not previously have had a minister.

6. That Presbyteries shall see that the preceding regulation has been complied with, and shall refuse to moderate in a call, in the event of non-compliance, until they shall have specially considered the reasons that may be assigned for such non-compliance.

APPENDIX V.

*Students and  
Probationers.*

ACT III. 1874. — ANENT THE DISTRIBUTION OF PROBATIONERS.

The Assembly resolve as follows:—

1. That before the name of any Probationer is removed from the roll of those to be sent to supply vacant charges, the Committee on the Distribution of Probationers will take care that during the six years of the continuance of such Probationer on the roll, he shall have opportunities of supplying not less than twelve such charges; and in order to effect this, the Committee shall, at the beginning of each year, ascertain the number of vacancies in which each of the Probationers who have been five years on the roll has preached in such vacancies, and they shall give to such of them as have not enjoyed the specified minimum of opportunities such a number of appointments during the last year.

2. In reckoning the number of opportunities of supplying vacancies, the opportunities which Probationers enjoy by the selection of Congregations, shall be added to those which they enjoy when sent on their rotation by the Committee.

3. These rules shall be applicable to the Probationers whose names would be removed from the roll of Probationers at the present time.

4. That a Register shall be kept by the Committee for the Distribution of Probationers, in which the opportunities enjoyed by Probationers to preach in vacant congregations, whether by the selection of the Congregation or by being sent in the order of rotation by the Committee, shall be recorded; and in order that such a register shall be kept correctly, the Session-Clerk shall be instructed to communicate to the Committee the names of all those who have preached in such vacancies by the invitation of the Congregation.

## APPENDIX VI.

*Property and  
Finance.**Model Trust-  
Deed.*

## APPENDIX VI.

## PROPERTY AND FINANCE.

*Free Church Model Trust-Deed.*

## ACT XVIII. 1844.—ACT ANENT THE TRUST-DEED.

*Act anent the  
Trust-Deed.*

The General Assembly having called for the Report of a Committee appointed to consider the whole matter of the Trust-Deed, the same was given in and read. The Assembly approve of the same, and enacted, and do hereby enact, in terms of said Report, the tenor whereof follows, viz. :—

Your Committee have had several meetings, and deliberated very fully on the whole subject remitted to them, and they unanimously approve of, and recommend the Assembly to adopt, the third or intermediate plan recommended by the Special Commission of last Assembly, viz. :

I. "That the property of each place of worship be vested in Trustees chosen by the congregation, to be held for the congregation, in communion with the Free Church, as attested to be so by the Moderator and Clerk of the General Assembly; that Church to be identified as in the Model Trust-Deed; the management of the property to be in the Deacons' Court,—all, as nearly as possible, as under the first plan.

II. "That in the event of a certain proportion of the Ministers and Elders, members of the Church Courts, separating from the general body, and claiming still to be the true *bona fide* representatives of the original protesters of 1843, and to be carrying out the objects of the Protest more faithfully than the majority, then, whatever the Courts of Law may determine, as to which of the contending parties is to be held to be the Free Church, it shall be competent for each congregation, by a majority of its members in full communion, to decide that question for itself, so far as the possession and use of their place of worship and other property are concerned, with or without compensation to the minority,—such compensation to be settled by arbitration." It being understood that a disruption of the Church in the sense referred to in this extract shall consist only in the simultaneous separation, that is, the separation from the general body *at once*, or within a period not exceeding three months, of at least one-third of the ordained ministers of the Church, having the charge of congregations in Scotland; and that such separation shall take place only on the professed grounds stated in the said deliverance of the Commission of Assembly; and it being further understood that, in order to determine who are members of the congregation entitled to dispose of the property in such a case, a roll of all the members of the Church, in full communion, shall be kept in each congregation, and annually attested by the Presbytery of the bounds; and that all such members, and such only, shall be entitled to vote in regard to the disposal of the property as have had their names on said roll for at least twelve months previous to the separation of the said one-third of ministers from the general body.

JAMES BEGG, *Convener.*



*Model Trust-Disposition* executed in conformity with the draft approved of by the General Assembly of the Free Church of Scotland, and by special reference to which it is recommended that all the churches and other property belonging to the congregations in connexion with said Church should be held :—

## APPENDIX VI.

Property and Finance.

Model Trust-Deed.

Introductory Clause.

Narrative Clause

Dispositive Clause

PURPOSES.

First, To hold in Trust.

WE, John Hamilton, Esq., Advocate; John Cadell, Esq., Advocate; John Murray, Esq., residing in Ainslie Place, Edinburgh; Robert Paul, Esq., Manager of the Commercial Bank of Scotland; James Smith, Esq., Builder in Edinburgh; and Thomas Thomson, Esq., Writer to the Signet, a majority and more than a quorum of the Building Committee appointed by, and authorized to act for behoof of the Kirk-session and Congregation of St. George's Free Church of Edinburgh, and as such, having power and being authorized and required, in manner after mentioned, to grant the disposition after written of the subjects and others after described, CONSIDERING, that by disposition dated the 11th, 15th, and 25th days of May, and 1st day of June, and 11th day of July, all in the year 1844, etc. (*here follows the narrative of the conveyance in favour of these parties, and of their title and authority to grant this deed, and that certain ministers and elders had separated from the Established Church of Scotland, and now formed a body of Christians, known by the name of the Free Church of Scotland, separate and distinct from the Established Church,—after which the inductive clause proceeds as follows:*) AND WHEREAS, in order to secure and invest the foresaid subjects and others, and buildings erected on the ground thereof, in connexion with the said Free Church of Scotland, it has been agreed to Convey the same to the parties after named and designed, as Trustees, in manner and to the effect following: THEREFORE we, the said John Hamilton, etc., have Alienated and Disposed, as we do hereby Sell, Alienate, Dispose, Assign, Convey, and Make Over, etc., heritably and irredeemably, to and in favour of the said John Cadell, Advocate (*here follow the names and designations of the Trustees, thirty-three in number*); Trustees for the foresaid Congregation of St. George's Free Church of Edinburgh, belonging and adhering to the said body of Christians called the Free Church of Scotland, and presently worshipping in Edinburgh, under the pastoral charge of the Rev. Dr. Robert Smith Candlish, and to such other person or persons as may, from time to time, be appointed, in virtue of the powers and provisions hereinafter contained, to act in the trust after specified and to the acceptors and survivors, and acceptor and survivor, and the heir of the last survivor of the said Trustees, whether herein named or to be appointed, as said is, the majority of accepting trustees, in life for the time, being always a quorum, and to the assignees and disponees of the said accepting Trustees, whether named or to be appointed as aforesaid, in life, for the time, or of their said quorum, ALL and WHOLE, etc. (*Here follows a description of the subjects.*) BUT DECLARING that these presents are granted IN TRUST ALWAYS, for the ends, uses, and purposes, and with the powers, and with and under the conditions, provisions, and declarations after specified: THAT IS TO SAY, in trust for the ends, uses, and purposes, and under the provisions and declarations following, viz. :—FIRST, UPON TRUST, That the Building or Place of Worship erected, or in the course of being erected, upon the ground hereby disposed, or any Building or Place of Worship that may hereafter be built and be erected thereon, with the appurtenances thereof, shall in all time coming be used, occupied and enjoyed, as and for a Place of Religious Worship, by a Congregation of the said body of Christians called the Free Church of Scotland, or of any united body of Christians composed of them, and of such other body or bodies of Christians as the said Free Church of Scotland may, at any time hereafter, associate with themselves, under the foresaid name of the Free Church of Scotland, or under whatever

## APPENDIX VI.

Property and  
Finance.

Secondly, That  
Ministers of Free  
Church may  
have use of  
Building.

But Ministers not  
to sue the Trus-  
tees, except with  
consent of Genera  
Assembly.

And deposed  
or suspended  
Ministers to be  
debarred from  
such use.

name or designation they may assume; and to be made use of by such Congregation, occupying and enjoying the same for the time being, in the way and manner in which, by the usages of the said body, or united body of Christians, Places of Religious Worship may be, or are in use to be, occupied and enjoyed; SECONDLY, UPON TRUST, That the said Trustees or Trustee acting for the time, shall, at all times, and from time to time, hereafter PERMIT and SUFFER to preach and expound the Holy Scriptures, and administer ordinances, and perform the usual acts of Religious Worship within the said Building or Place of worship, erected or to be erected, as said is, such person or persons, and such person or persons only, as may or shall, from time to time, be authorized or appointed so to do, by the said body or united body of Christians, acting through the medium of its Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies, or according to the form or forms in use with the said body, or united body, for the time: PROVIDING always, as it is hereby expressly PROVIDED and DECLARED, that no person or persons, even holding such authority and appointment, as aforesaid, nor any person or persons whatsoever, shall have any right or title to pursue the said Trustees or Trustee, acting under these presents for the time, in any Court of Law or Justice, for the purpose, or with the object and intent, either of obtaining such permission and sufferance as said is, or the continuance thereof, or of obtaining in any manner of way whatever, liberty or the continuance of liberty, to preach and expound the Holy Scriptures, or administer ordinances, or to do or perform any act of Religious Worship or other act or thing, whatsoever, within the said Building or Place of Worship, erected, or to be erected, as said is, or with the object and intent of, in any way, controlling the said Trustees or Trustee, in reference to the use, occupation, management, or disposal of such Building or Place of Worship, unless with the express consent, and concurrence, of the General Assembly of the said body, or united body of Christians, or of the Commission of such Assembly, previously had, to such pursuit; of which consent, and concurrence, the only legal or admissible evidence shall be a written Certificate, under the hand of the Moderator and Clerk of the General Assembly of the said body or united body of Christians, or of their then immediately preceding General Assembly, or under the hand of the parties generally known, or understood, to hold those offices for the time being; which written Certificate shall be produced along with the summons, or other proceeding, commencing such pursuit, otherwise the same shall be utterly incompetent, void, and null, albeit such Certificate really may exist: DECLARING, as it is hereby expressly PROVIDED and DECLARED, that, in the event of any person or persons, even holding such authority or appointment, as aforesaid, or any person or persons whatsoever, pursuing the said Trustees, or Trustee, as aforesaid, unless with such express consent and concurrence as aforesaid, previously had to such pursuit, as said is, evidenced as aforesaid, such person, or persons, shall, immediately on such pursuit being commenced, *ipso facto*, forfeit and lose all and every right, title, and interest, and claim and demand, of whatever description, under these presents, and shall, from thenceforward, cease to have any concern therewith, or interest therein: AND PROVIDING, further, as it is hereby further expressly PROVIDED and DECLARED, that whensoever any person holding such authority or appointment, as said is, and enjoying the permission and sufferance foresaid, shall by a sentence of the said body, or united body of Christians, pronounced by one or other of its Presbyteries, Provincial Synods, or by its General Assembly, or Commission of such Assembly, for the time being, or in any other way, or manner, in use in such matters, for the time, by the said body, or united body of Christians, be deposed, or suspended, from office or cut off from the said body, or united body of Christians, or declared no longer a Minister thereof, his authority and appointment foresaid, shall, *ipso*

*facto*, cease and determine, and the said Trustees, or Trustee acting for the time, shall not only be no longer bound, but be no longer entitled, to permit or suffer him to preach and expound the Holy Scriptures, or administer ordinances, or do or perform any act of Religious Worship, or other act or thing whatsoever, within the said Building, or Place of Worship, erected, or to be erected, as said is; and shall be bound and obliged to debar him therefrom, aye and so long as he remain deposed or suspended, or cut off as aforesaid: **THIRDLY, UPON FURTHER TRUST**, That the said Building, or Place of Worship, erected, or to be erected, as said is, and whole appurtenances thereof, and generally the whole subjects hereby disposed, shall be under the immediate charge and management (except always as regards the authority and appointment, and relative permission and sufferance, before mentioned) of the Elders and Deacons, or Elders acting as Deacons, for the time being, of the Congregation in the use, occupation, and enjoyment for the time, of such Building or Place of Worship,—such Elders and Deacons, or Elders acting as Deacons, being always subject to such control, as shall, or may, be provided, from time to time, by the said body, or united body, of Christians, through the medium of its Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies, or in the way and manner generally in use in the said body, or united body, for the time: **DECLARING** always, as it is hereby expressly **PROVIDED** and **DECLARED**, that it shall not be in the power of the said Deacons, or Elders, or any of them, or of any, or all, of the individual members of the Congregation, in the use, occupation, and enjoyment, for the time being, of the said Building, or Place of Worship, and appurtenances thereof, or of any or all of said parties, either to maintain themselves in any use, possession, occupation, or enjoyment of the same, as against the said Trustees or Trustee, acting for the time, or to institute against the said Trustees or Trustee, acting for the time, any action, suit, or proceeding, before any Court of Law or Justice, for the purpose, either of obtaining, or maintaining such possession, use, occupation, or enjoyment, or of controlling in any way the said Trustees or Trustee, in reference to the use, possession, occupation or enjoyment, or management, and disposal of such Building, or Place of Worship, unless with the express consent and concurrence of the General Assembly of the said body, or united body of Christians, or Commission of such Assembly, previously had; of which consent and concurrence the only legal or admissible evidence shall be a written Certificate, under the hand of the Moderator and Clerk of the General Assembly of the said body, or united body of Christians, or of their then immediately preceding General Assembly, or under the hand of the parties generally known, or understood, to hold those offices, for the time being; which written Certificate shall be produced along with the summons, or other proceeding, commencing such action, suit, or proceeding; otherwise such action, suit, or proceeding shall be utterly incompetent, void and null, albeit such Certificate may really exist: **DECLARING**, as it is hereby expressly **PROVIDED** and **DECLARED**, that, in the event of any Elders and Deacons, or Elders or Deacons, one or more, or Members or Member of any Congregation, as aforesaid, or all or any of them, instituting against the said Trustees, or Trustee, any action, suit, or proceeding, as aforesaid, for the purposes aforesaid, or any of them, unless with such express consent and concurrence as aforesaid, previously had, as said is, evidenced as aforesaid, such party or parties, instituting said action, suit, or proceeding, as aforesaid, shall, immediately on the same being instituted, *ipso facto*, forfeit and lose all and every right, title, and interest, and claim and demand, of whatever description, under these presents, and shall, from thenceforward, cease to have any concern therewith, or interest therein: **FOURTHLY, UPON FURTHER TRUST**, That the said Trustees, or Trustee, acting for the time, shall, at all times, be subject, in the management and

APPENDIX VI

Property and Finance.

Thirdly, That Elders and Deacons may have charge and management.

But Elders, Deacons, or others, not to sue the Trustees, except with consent of the Assembly or its Commission.

Fourthly, Trustees to be subject in all things to the General Assembly

## APPENDIX VI.

*Property and  
Finance.*

disposal of the said Building or Place of Worship, and appurtenances thereof, and whole subjects hereby disposed, and in all matters and things connected therewith, to the regulation and direction of the General Assembly for the time being, of the said body, or united body of Christians, and shall be liable and bound to conform to, implement, and obey, all and every the Act, or Acts, of the General Assembly for the time being, of the said body, or united body of Christians, in reference thereto; and the Moderator and Clerk of the said General Assembly for the time being, or of the then immediately preceding General Assembly of the said body, or united body of Christians, or the parties generally known, or understood, to hold those offices for the time, shall, at all times, have full power, and sufficient status, and right and interest, to pursue, or defend, any action or actions, in whatever Court, or Courts of Law or Justice, for the enforcement, maintenance, or protection, of the rights, interests, or privileges of the said body, or united body of Christians, or General Assembly thereof, in, or in any way connected with, the subjects hereby disposed, and Building, or Place of Worship, erected, or to be erected, thereon, and appurtenances thereof: **DECLARING** always, that a Certified Copy, under the hands of the Moderator and Clerk, of the said General Assembly for the time being, or of the then immediately preceding General Assembly of the said body, or united body of Christians, or of the parties generally known, or understood, to hold those offices, for the time, shall always be legal and admissible evidence, in all actions, matters, and things, arising under, or out of, these presents, of the terms of any Act or Deliverance of the General Assembly of the said body, or united body of Christians, or Commission thereof, pronounced, passed, or that may be passed or pronounced; and that a Certificate, under the hand of the Moderator and Clerk of the said Assembly for the time being, or of the parties generally known, or understood, to hold those offices for the time, attached to such Certified Copy, and bearing the date of such Act or Deliverance, and Certifying that the same is, either wholly, or in part, an existing Act of the said Assembly, or Commission thereof, shall always be legal and admissible evidence, in all actions, matters, and things, as aforesaid, of the date of such Act or Deliverance of the said Assembly, or Commission thereof, and of its being still, either wholly or in part, an existing Act or Deliverance as aforesaid: **AND DECLARING**, further, that a Certified Copy of any Act or Deliverance of any of the Synods or Presbyteries of the said body or united body, under the hands of the Moderator and Clerk of any such Synod or Presbytery respectively, or of the parties generally known and understood to hold those offices for the time, shall always be legal and admissible evidence in all actions, matters, or things arising under or out of these presents, of the terms and date of any Act or Deliverance pronounced by any such Synod or Presbytery respectively: **FIFTHLY**, It is hereby expressly **PROVIDED** and **DECLARED**, That the said Trustees, or Trustee, acting for the time, shall always have full power and liberty to raise, prosecute, and follow forth, whatever action, suit, or proceeding, they may think proper, in whatever Court, or Courts, of Law or Justice, for the purpose, or with the intent and object, of excluding any party or parties whatsoever, from all or any use, possession, occupation, or enjoyment, of the Building or Place of Worship, erected or to be erected, as said is, or any part thereof, or generally of the subjects hereby disposed, or any part thereof; and that no party, or parties, whatsoever, shall have any right, or title, whatsoever, to defend such action, suit, or proceeding, either in virtue of these presents, or otherwise, unless with the express consent and concurrence, as aforesaid, of the General Assembly of the said body, or united body of Christians, or the Commission of such Assembly, previously had, to such defence; of which consent and concurrence, the only legal or admissible evidence shall be a written Certificate, under the hand of the Moderator and Clerk

*Fifthly*, Trustees  
to have power to  
sue.

And defence  
against such suits  
not to be main-  
tainable except  
with consent of  
the Assembly or  
its Commission.

of the General Assembly of the said body, or united body of Christians, or of their then immediately preceding General Assembly, or under the hand of the parties generally known, or understood, to hold those offices for the time being; which written Certificate shall be produced, along with such defence, otherwise the same shall not be maintainable, but be incompetent, void, and null, albeit such Certificate may really exist: SIXTHLY, It is hereby further expressly PROVIDED and DECLARED, That the said Trustees, or Trustee, acting for the time, shall not have power to burden the said Building, or Place of Worship, or appurtenances thereof, or, generally, the subjects hereby disposed, or any part thereof, with any debts or sums of money, or to sell, alienate, or dispose the same, or any part thereof, unless for the purpose of providing another Place of Worship for behoof of the said body or united body of Christians, in a more suitable or convenient situation; and then only with the consent, first had and obtained, of the General Assembly for the time being, of the said body, or united body of Christians; of which consent the only legal and admissible evidence shall be a Certificate under the hand of the Moderator and Clerk of the General Assembly, for the time being, or of the then immediately preceding General Assembly, or under the hand of the parties generally known, or understood, to hold those offices for the time: PROVIDED ALWAYS, however, and DECLARING, that if, at any time, sufficient provision shall not be made by the Congregation in the use, occupation, and enjoyment of the said Building or Place of Worship, for the time being, or by the Deacons, or Elders acting as Deacons, thereof, for paying the feu-duties, public and parochial burdens, premiums of insurance, and ordinary charges attendant on the property, for keeping the same in repair, or otherwise, then the said Trustees, or Trustee, acting for the time, themselves making provision therefor, and in that case only, shall be entitled, for their relief of their advances for the purposes above mentioned, or any of them, to sell and dispose of the said Building, or Place of Worship, and generally the whole subjects hereby disposed, or any part thereof, free from the whole conditions and purposes of this trust; they always accounting to the General Trustees appointed by the said General Assembly upon the 27th day of May 1844 years, to hold any property to be bequeathed or conveyed to them for behoof of the said Free Church, or of the said body, or united body of Christians, and to the acceptors of the said General Trustees, or their successors in office, for the balance of the price thereof, after replacing any sums advanced, or provided by them for the purposes foresaid, or any of them, and all expenses attendant on the sale; but the purchaser, or purchasers, having, as he or they are hereby expressly declared to have, no concern whatever with such accounting; and the receipts of the Trustees, or Trustee, acting for the time, being always a sufficient discharge and exoneration to the purchaser, or purchasers, for payment of the price: BUT DECLARING always, as it is further hereby specially provided and declared, that in the event of such sale being considered necessary, an offer to sell the said subjects shall, in the first place, be made to the General Trustees foresaid, for payment of the sums which may have been expended by the said Trustees, and may be due to them as aforesaid: And the said General Trustees shall be entitled to purchase the said subjects for payment of the sums which may have been advanced by and may be due to the Trustees of the said Place of Worship, as aforesaid: And the said Trustees last mentioned, on receiving payment of the said sums, shall be bound and obliged to convey the said subjects to the said General Trustees accordingly: SEVENTHLY, It is hereby also expressly PROVIDED and DECLARED, That it shall, at all times, be in the power of any Trustees, or Trustee, whether hereby named, or that may be appointed in virtue of the powers and provisions hereinafter contained, who may have acted in the said trust, to resign the Trusteeship; and that, in the event of any Trustees, or Trustee, whether named or to be appointed, as said is, ceasing to be members of the said body,

APPENDIX VI.

Property and  
Finance.Sixthly, Trustees  
not to burden or  
sell,except with con-  
sent of Assembly,or for relief of  
pecuniary lia-  
bilities,and then to be  
accountable to  
the General  
Trustees.Before sale to  
offer to General  
Trustees.Seventhly, Trust-  
tees have power  
to resign,and their office to  
fall if they cease  
to be Members of  
Free Church.



## APPENDIX VI.

Property and  
Finance.

*Eighthly*, Congregation to have power of appointing additional Trustees.

or united body of Christians, then, and in that case, such Trustees, or Trustee, shall, *ipso facto*, cease to have any right to act under these presents, and the trust shall be thenceforward conducted by the other Trustees, as if such Trustees, or Trustee, ceasing as said is, were actually dead : EIGHTHLY, It is hereby further expressly PROVIDED and DECLARED, That it shall be, at all times, in the power of the Congregation in the use and occupation of the said Building, or Place of Worship for the time being, and such Congregation is hereby expressly empowered, from time to time, and as often as to it shall seem proper and expedient, to appoint, at a meeting called on ten free days' notice, given from the pulpit, immediately after Divine Service in the forenoon, such notice always specifying the object for which the Meeting is called, Additional Trustees to act under these presents, along with the Trustees who, at the date of such appointment, are surviving and acting ; and each and every Additional Trustee, so appointed, shall, by virtue of such appointment, be, *ipso facto*, instantly invested with the same right of property, and with all and every the same rights, powers, and privileges, as any individual Trustee who is actually named and designed in these presents, and infeft, or who may be infeft under the same ; such Additional Trustee being, at the same time, always subject and liable, in the same way as such original Trustee, to the whole conditions, provisions, and declarations herein set forth : AND the said Trustees, or Trustee, acting for the time, shall on every occasion of such appointment of Additional Trustees, be bound and obliged to execute a formal Deed of Assumption of such Additional Trustees, containing a formal, and in all respects, complete conveyance of the subjects hereby disposed, in favour of such Additional Trustees and of themselves, and otherwise in terms of these presents ; but such Additional Trustees shall, even before the execution of such conveyance, and immediately on their appointment, as said is, have the full right, power, and privilege, of acting in the trust in the same way as any individual Trustee actually named and designed in these presents, and infeft, or who may be infeft under the same : NINTHLY, It is hereby specially PROVIDED and DECLARED, That if, at any time hereafter, one-third of the whole ordained Ministers having the charge of Congregations of the said body, or united body of Christians, or any larger number of the said ordained Ministers, having charges as aforesaid, shall simultaneously, or within a consecutive period not exceeding three calendar months, not only publicly separate from the said body or united body of Christians, but at the same time publicly claim and profess to hold, truly and *in bona fide*, the principles of the Protest of 18th May 1843, herein-before recited, and to be carrying out the objects of the said Protest more faithfully than the majority of the Ministers of the said body, or united body of Christians, and shall unite in forming one body of Christians, having Kirk-Sessions, Presbyteries, Provincial Synods, and a General Assembly, then, and in that case, and anything herein to the contrary notwithstanding, it shall be competent to, and in the power of, a majority of the Congregation, in the use, occupation, and enjoyment of the said Building or Place of Worship, for the time, to provide and declare, by a Deed of Declaration and Appointment under their hands, to that effect duly executed, that the ground hereby disposed, and Building or Place of Worship then upon the same, shall, from thenceforward, be held as in connexion with the body of Christians adhering to the Ministers who shall have separated as aforesaid ; and, for this purpose, to require and appoint the said Trustees, or Trustee, acting under these presents for the time, to convey and dispoise the ground hereby disposed, and the Building, or Place of Worship, then upon the same, and whole appurtenances thereof, to any three or more Trustees in the said Deed of Declaration and Appointment named, to be held by such new Trustees, and their successors in trust as after mentioned ; And, on such Deed of Declaration and Appointment being executed as said is, the Trustees, or Trustee, acting under

*Ninthly*, Provision for the event of a Disruption.



these presents for the time, shall be bound and obliged, as they are hereby bound and obliged, at the expense always of the receivers, and on being entirely freed and relieved of all pecuniary obligations then affecting the subjects hereby disposed, or Buildings thereon, or affecting them as Trustees, or Trustee, under these presents, or for or to which they, as such Trustees or Trustee, may be subject or liable, but no sooner or otherwise, to convey and dispose the ground hereby disposed, and the Building or Place of Worship, then upon the same, and whole appurtenances thereof, to the said new Trustees who shall be in the said Deed of Declaration and Appointment named, and their successors, in trust for the said persons, subscribers of the said Deed of Declaration and Appointment as a Congregation of the said body of Christians who shall have separated as aforesaid, and for the successors of such persons, forming such Congregation for the time being; such new Deed of Trust to be, *mutatis mutandis*, as nearly as possible in the terms and of the import of these presents, and to have for its object the placing the said Congregation of the said body of Christians who shall have separated as aforesaid, and the Minister of such Congregation, and the Elders and Deacons, and Elders acting as Deacons thereof, and the said body of Christians who shall have separated as aforesaid, and its Kirk-Sessions, Presbyteries, Provincial Synods, and General Assembly, and the said new Trustees themselves, in the same relation, respectively, to the ground hereby disposed, and Buildings thereon, and appurtenances thereof, and in the same relation to each other, in reference thereto, as was held before the granting of the said new Deed of Trust by the Congregation using, occupying, and enjoying the same in virtue of these presents, and the Minister of such former Congregation, and the Elders and Deacons, and Elders acting as Deacons thereof, and the said original body, or united body of Christians, and its Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies, and the said Trustees, or Trustee, acting under these presents: TENTHLY, It is hereby expressly PROVIDED and DECLARED, That in the event of a Deed of Declaration and Appointment, and new Deed of Trust, being executed as aforesaid, the parties signing such Deed of Declaration and Appointment shall be subject and liable to pay and make good to the minority of the Congregation with whom they were previously connected, who did not sign the said Deed, and for behoof of the said body, or united body of Christians, with which also they were previously connected, a proportion of the net value of the subjects disposed by such new Deed of Trust, corresponding to the number of such minority, as compared with the number of subscribers to the said Deed of Declaration and Appointment: ELEVENTHLY, It is hereby expressly PROVIDED and DECLARED, That no person shall be deemed or taken to be an ordained Minister, having charge of a Congregation of the said body, or united body of Christians, in the sense of these presents, unless his name shall appear in an Annual Roll or List of Ordained Ministers, having charges of Congregations belonging to the said body, or united body of Christians, to be annually attested by the Moderator and Clerk for the time of the General Assembly of the said body, or united body of Christians; and that no person shall be deemed or taken to be an ordained Minister, having charge as aforesaid, in the sense of these presents, any longer than his name shall continue to appear in the said Annual Rolls or Lists, attested as aforesaid: TWELFTHLY, It is hereby further PROVIDED and DECLARED, That no person shall be deemed or taken to be a member of Congregation, in the sense of these presents, or shall be entitled to vote or act in any of the proceedings of the congregation, unless the name of such person shall appear in the Annual Roll or List of the members of the congregation, in the use, occupation, and enjoyment of the said Place of Worship, being in full communion with the said body, or united body of Christians, to be annually attested by the Presbytery connected with the said body, or united body of Christians, of the bounds in which such Place of Wor-

APPENDIX VI.

Property and  
Finance.Tenthly, Obliga-  
tion to indemnify  
Minority.Eleventhly, Who  
to be deemed  
Ministers of Free  
Church.Twelfthly, Who  
to be deemed  
Members of the  
Congregation.

## APPENDIX VI.

Property and  
Finance.

Thirteenthly.

ship is situated; and in the event of a disruption as aforesaid, no person shall be entitled to vote or subscribe in relation thereto unless the name of such person shall have appeared on said Roll, attested as aforesaid, for at least twelve calendar months next immediately preceding the public separation or disruption aforesaid; and that no person shall be deemed or taken to be a Member of Congregation in the sense of these presents, or shall be entitled to vote or act as aforesaid, any longer than his name shall continue to appear in the said Annual Rolls or Lists of Members of Congregation, attested as aforesaid: THIRTEENTHLY, It is hereby further PROVIDED and DECLARED, That these presents are granted, and the foresaid subjects and others disposed, with the servitudes and under the conditions and declarations following, viz., (*here follow certain conditions, &c., which have reference exclusively to the ground of St. George's Free Church*).

[THEN FOLLOW Obligation to Infeft. Procuratory of Resignation. Assignment to the Writs and Rents. Clause of Registration. Precept of Sasine, and other clauses in usual form.]

*Dated 9th, 11th, and 12th, and recorded in the Books of Council and Session 13th November 1844.*

NOTE.—*This Deed will be found unabridged in Acts 1851, Fol 377.*

*Act 31 and 32 Vict. 1868, Cap. 101.*

Titles to Land  
Consolidation  
Act 1868.

An Act to Consolidate the Statutes relating to the Constitution and Completion of Titles to Heritable Property in Scotland, and to make certain changes in the Law of Scotland relating to Heritable Rights (31st July 1868).

*N.B.*—It is important to notice that this Act REPEALS, *inter alia*, the Act 13 and 14 Vict. 1850, cap. 51, entitled “An Act to render more simple and effectual the Titles by which Congregations or Societies associated for purposes of Religious Worship or Education in Scotland hold real property required for such purposes.”

The following are portions of this Act (1868) which relate to Ecclesiastical or School property:—

CLAUSE III. (the Interpretation Clause) provides that “the word ‘Lands’ shall extend to and include all Heritable Subjects, Securities, and Rights.”

CLAUSE XXVI. Wherever lands have been or may hereafter be acquired by any congregation, society, or body of men associated for religious purposes, or for the promotion of Education, including the General Assemblies, Synods, and Presbyteries of the Established Church of *Scotland*, and of all other Presbyterian Churches in *Scotland*, as a chapel, meeting-house, or other place of worship, or as a manse or dwelling-house for the minister of such congregation or society or body of men, or offices, garden, or glebe for his use, or as a schoolhouse or schoolmaster’s house, garden, or playground, or as a college, academy, or seminary, or as a hall or rooms for meeting for the transaction of business, or as part of the property belonging to such congregation, society, or body of men, and wherever the conveyance or lease of such lands has been or may be taken in favour of the moderator, minister, kirk-session, vestrymen, deacons, managers, or other office-bearers, or office-bearer of such congregation or society, or body of men, or any of them, or of trustees appointed, or to be from time to time appointed, or of any party or parties named in such conveyance, or lease in trust for behoof of the congregation or society or body of men, or of the individuals comprising the same. such conveyance, when recorded with warrant of registration thereon in terms

of this Act, or when followed by notarial instrument expedite, and with warrant of registration thereon recorded in terms of this Act, or such lease, shall not only vest the party or parties named therein in the lands, thereby feued, conveyed, or leased, but shall also, after the death or resignation or removal from office of such party or parties, or any of them, effectually vest their successors in office for the time being chosen and appointed in the manner provided or referred to in such conveyance or lease, or if no mode of appointment be therein set forth or prescribed, then in terms of the rules or regulations of such congregation or society or body of men, in such lands, subject to such and the like trusts, and with and under the same powers and provisions as are contained or referred to in the conveyance or lease given and granted to the parties, disponees, or lessees therein, and that without any transmission or renewal of the investiture whatsoever, anything in such conveyance or lease contained to the contrary notwithstanding: And the provisions of this section shall apply also to all trusts for the maintenance, support, or endowment of ministers of religion, missionaries, or schoolmasters, or for the maintenance of the fabric of churches, chapels, meeting-houses, or other places of worship, or of manses or dwelling-houses or offices for ministers of the gospel, or of schoolhouses or schoolmasters' houses, or other like buildings.

CLAUSE CXIII. Where no agreement shall have been made or shall be made with the superior of lands of the nature referred to in the twenty-sixth section of this Act for a periodical or other payment in lieu of the casualty or composition payable by law or in terms of the investiture upon the entry of heirs and singular successors, or where the casualty and composition shall not have been taxed, and where by law and under the terms of the investiture composition as on the entry of a singular successor would be, or but for the provisions of the said section would have been, payable upon the entry of any party or parties as successors to the party or parties in whose name the titles shall have been expedite and recorded as provided by the said section, it shall be lawful for such superior, at the death of the existing vassal in such lands, and at the expiration of every period of twenty-five years thereafter, so long as such lands shall belong to or be held for behoof of such congregation or society or body of men, to demand and take from such congregation or society or body of men, or other party or parties to whom such lands may have been or shall be feued or conveyed, or by whom the same may be held for their behoof, a sum corresponding to the casualty or composition, if any such shall in the circumstances be due, which would have been payable upon the entry of a singular successor therein; and such payments shall be in full of all casualties of entry and composition payable to the superior for or furth of such lands, while the same shall remain the property or be held for behoof of such congregation or society or body of men, and the superior shall have all such and the like preference and execution for the recovery of such sums as superiors have for the recovery of casualties of superiority according to law: Provided always, that where such casualty or composition shall not have been taxed in the investiture, and the lands so feued or conveyed shall not be situated in the town or village or in the immediate vicinity thereof, the casualty or composition payable therefor shall be held to be the annual rent or annual value of the lands so feued or conveyed, if let as an agricultural subject at the time when such casualty or composition shall become due and exigible in virtue of this Act.

*Note.*—For alterations in the foregoing provisions of the Act of 1868, see sections 5 and 45 of the Conveyancing (Scotland) Act, 1874 (37 and 38 Vict. cap. 94), printed on pages 321 and 322 of this Appendix.

APPENDIX VI.

Property and  
Finance.

## APPENDIX VI.

*Property and  
Finance.*Appointment of  
General Trustees.*General Trustees.*

## ACT XXVI. 1844.—ACT APPOINTING TRUSTEES FOR BEHOOF OF THE FREE CHURCH.

The General Assembly resolve, that the following Elders be appointed Trustees to hold any property which may be bequeathed or conveyed to them for behoof of the Free Church; and also to hold such places of worship as may be erected on sites granted on entailed estates, under the provisions of the Statute 3d and 4th Victoria, cap. 48; and in regard to which it has been provided, in the decree authorising the conveyance, that the Trustees shall be parties nominated by the General Assembly; and also such other places of worship as the parties interested may wish to convey to them, in the terms of the report on the Trust-deed agreed to by the Assembly this day.

Quorum.  
Act V. 1865.

The Assembly declare that *three* shall for the future be a Quorum of the Trustees at any meeting.

## MINUTE OF ASSEMBLY, 1ST JUNE 1852.

Investment of  
Funds.

They (the General Assembly) direct the several Committees to whom money may be left or doted, for the purpose of being mortified and the interest applied to the object of the particular Committees, to invest the same, not in their own names, but in the names of the General Trustees; and they also direct all Committees holding any heritable property appropriated to general purposes, to transfer the same, as soon as circumstances will admit, to the General Trustees; and they instruct the Trustees to lay before the Assembly each year a statement similar to that presented to the General Assembly, which shall set forth not only the funds which may have been invested in them in the course of the past year, but also the whole funds and property at the time standing in their names.

*Functions of Presbyteries and Deacons' Courts in relation to  
Ecclesiastical Buildings.**Note.*Applications for  
Grants.

It is the practice of the Building Committee to require that in all applications for grants in aid of building churches or manse the schedule shall pass before the Presbytery of the bounds, and shall be accompanied with their deliverance as to the suitableness and sufficiency of the site and of the building proposed to be erected.

## ACT VIII. 1863.—ACT ANENT SALES AND TRANSFERENCES OF PROPERTY.

Sales and Trans-  
ference of Pro-  
perty.

The General Assembly hereby enact and ordain—

1. That all applications for sale or transfer of Church property shall proceed from the Deacons' Court, with concurrence of the Congregation, and shall have the sanction of the Presbytery of the bounds; and that all such applications, on being received by the Clerks of Assembly, shall be communicated to the Custodier of title-deeds (or Committee charged with that matter), in order that he (or they) may be prepared to advise the Assembly or its Committee in reference to the application.

2. That when a property is to be sold, and the proceeds are forthwith to be applied to another property, to be substituted in lieu thereof, the Custodier of Titles (or Committee) shall be directed to see the transaction carried into effect, and also to see that the title-deeds of the new property are taken in the same terms as those of the old, or in terms of the model trust-deed.

3. When the proceeds of the property to be sold or transferred are not to be immediately applied, they shall be deposited or invested, in the meantime, in name of the General Treasurer of the Free Church, for behoof of the congregation.

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Property and Finance.

# ACT X. 1875.—ANENT SALES AND TRANSFERENCE OF PROPERTY.

With reference to Act VIII. of Assembly 1863, the General Assembly enact and ordain that in cases of Sales and Transference of Property, it shall be the duty of the Custodier of Titles to report annually to the General Assembly how far in each particular case the provisions of the said Act and the instructions of the General Assembly have been observed.

Sales and Transference of Property.

## *Transfer of Schools.*

MINUTE OF ASSEMBLY, 2d JUNE 1874.

With reference to the whole subject of Free Church School properties, the General Assembly find that some practical questions of importance may require special action before the meeting of next Assembly. The Assembly, considering that the consent of the Assembly may be required with reference to any new arrangements as to the property of school buildings, while re-appointing the Special Commission, again delegate to them the powers of Assembly in relation to the whole subject. The Assembly specially delegate Assembly powers to the Special Commission in relation to all cases of proposed transference of school property, and also in relation to such action as the Commission may deem desirable for the purpose of obtaining a right solution of questions about school properties not transferred. The Assembly hereby appoint the Clerks of the Assembly to be Clerks to this Commission. The Assembly authorise the Moderator and Clerks to affix their signatures to whatever statements or certificates may be required by the action of said Commission, and to do so as Moderator and Clerks of this Assembly where such signatures may be found necessary and desirable, it being understood that in ordinary cases the signature of the Convener, or either of the Vice-Conveners, will be sufficient, along with that of one of the Clerks. The Assembly also appoint three to be a quorum of this Commission.

Transfer of Schools.

## ABSTRACT OF "FREE CHURCH OF SCOTLAND SCHOOL PROPERTIES ACT, 1878," (*Report of Special Commission, 1879.*)

The Deacons' Court of each Congregation, for whose behoof or in connection with which any school property is held, may, with the consent of the General Assembly, appropriate such school property, or any part thereof, to such educational uses, including Sabbath schools, libraries, lectures, etc., in connection with such congregation, as such Deacons' Court may think fit, notwithstanding any restrictions or conditions with respect to the use, or reversion, or forfeiture thereof, contained or referred to in the titles under which it is held.

School Properties Act, 1878.



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*Property and  
Finance.**School Properties  
Act, 1873.*

In case of school property held under a title granted under the powers of the Act of Parliament of 1840, or of the Act of 1841, the continued use of the dwelling-house attached to such school property, as a dwelling-house, requires the consent of the granter of such title or his successor.

If the Deacons' Court of the congregation, or the General Assembly shall consider that the school property cannot be, or at any time has ceased to be, beneficially appropriated to educational uses, or may with greater advantage be sold or let for other purposes, such Deacons' Court may, with the consent of the General Assembly, but subject to the provisions contained in the Act, sell, at the highest price that can be obtained, such school property; or the Deacons' Court, with the consent of the General Assembly, may from time to time, let the same at the highest rent which can safely be obtained, and the free proceeds of the sale of such school property, if sold, or the proportion thereof falling to the congregation, and the free rents of the school property, if let, shall be held and applied in the manner provided by the Act.

Provisions are inserted for the protection of proprietors of estates, of which sites of school properties are held by a title under which, either by reference to the Act of 1840, or to the Act of 1841, or otherwise than by incorporation of, or reference to the terms and conditions of the model trust-deed, the use of such school property is restricted, or any right reserved to the person from whom such school property was acquired.

In the event of the sale of any school property the free proceeds, after deducting the reasonable expenses of and consequent upon the sale, and the repayment to Government of any grant which may have been made out of public money towards the purchase, erection, or furnishing of such school, shall, where the General Assembly has contributed any part of the original cost of the school, in cases where such free proceeds shall not amount to the aggregate sums contributed by the General Assembly or by the congregation for whose behoof, or in connection with which such school property is held respectively, be divided between the General Assembly and the Deacons' Court of such congregation in proportion to the respective amounts contributed towards such cost by the General Assembly on the one hand, and by such congregation on the other hand; and in cases where such free proceeds shall amount to or exceed the aggregate sums contributed by the General Assembly and by such congregation respectively, such free proceeds shall be applied in the first place, in payment to the General Assembly of the sum contributed by them, and the balance shall be paid over to the Deacons' Court of such congregation. Where no part of such cost was contributed by the General Assembly, the whole of the free proceeds shall be paid over to the Deacons' Court.

The portions of the free proceeds of sale received by the General Assembly shall be applied by them towards such of the following purposes, in relation to educational interests in connection with the Free Church, as they may appoint, that is to say, towards the granting of pensions or allowances to retired teachers (so far as the same are not paid by Deacons' Courts), the support of normal schools, the payment of fees of normal school students attending universities or colleges, the foundation of scholarships or bursaries, or the establishment or maintenance of a school or schools.

The free proceeds or portions of free proceeds of sale, and the rents received by such Deacons' Court as aforesaid, shall be applied by them towards such purposes as aforesaid, in connection with their congregation or with the Free Church, as may be sanctioned by the General Assembly, or towards the establishment or maintenance of a Sabbath school or Sabbath schools, and of a library where deemed expedient, or for school prizes; provided always, that if there shall be a retired teacher of a school attached or



which may have been attached to such congregation, to whom the General Assembly shall have granted a pension or allowance, the payment thereof shall, to such extent as may be agreed upon between the General Assembly and such Deacons' Court, form a primary charge on the sums received by such Deacons' Court.

It is specially provided that no part of the capital sums arising from the free proceeds of sale of school properties shall be applied to any of the aforesaid purposes, except the establishment of schools or libraries, and, except so far as applied to the last-mentioned purposes, such capital sums shall be invested by the General Assembly, or the respective Deacons' Courts, as the case may be, in the manner pointed out by the Act.

APPENDIX VI

Property and Finance.

Finance Committee.

MINUTE OF COMMISSION, 7th MARCH 1849.

The Commission approve of the appointment of a Select Finance Committee as a Standing Committee of the Church, and exclusively for the following purposes and functions :—

1. For the quarterly auditing of the accounts of all the Committees, as suggested by the General Treasurer under the *fourth* head of the Committee's report, it being understood that the Finance Committee shall have power to make such suggestions as they may deem suitable, to the several Committees of the Church and to the General Assembly.

2. For making up, issuing, and publishing the annual accounts to be laid before the Assembly, and printed and circulated for the information of the Church ; the Treasurer being required to give his services in this work, and to prepare the states.

3. For regulating the details of the office expenditure, determining the number of clerks from time to time to be employed, and the salaries to be allowed to them.

4. For receiving and transmitting to the General Assembly or the Commission such proposals as may be made by any of the Committees for employing paid agents in the raising of funds or resorting to deputations, or other extraordinary methods of raising sums ; the Finance Committee expressing their opinion on such proposals ; which shall not be carried into effect without the sanction of the Assembly or its Commission.

Finally, the Commission are of opinion that the Select Finance Committee should be composed of ministers and elders in equal numbers, and accordingly they appoint a Committee, instructing them to carry out the several deliverances of the Commission, in so far as it shall seem necessary and proper to do so, to mature still further a report to be laid before the ensuing General Assembly, embracing both the matters decided by the Commission, and such other matters as may remain still to be adjusted in regard to the financial affairs of the Church.

MINUTE OF ASSEMBLY, 6th JUNE 1849.

The Assembly re-appoint the Committee, with the powers set forth in the deliverance of the Commission, and particularly to appoint an auditor or auditors of accounts, and give instructions as to the duty to be performed by them, and to make such arrangements as they may see cause as to clerks, stationery, etc., in the offices of the Schemes, and also if necessary for providing other temporary premises for the use of the Church, or if an

Powers of Finance Committee.

## APPENDIX VI.

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Finance.*

opportunity of securing proper permanent accommodation occur, to report to the Commission, which is empowered at any of its stated meetings to sanction the acquisition of such premises.

REPORT OF FINANCE COMMITTEE TO ASSEMBLY 1857 AS TO COMMITTEES  
OVERDRAWING THEIR ACCOUNTS.

*Advances to  
Committees.*

The state of the balances on the several Schemes will be seen from the list which, as usual, accompanies this Report. On this subject the Committee submit to the Assembly that it is desirable, and the present is a favourable time, to reconsider the rules which should be observed in the case of committees requiring temporarily to overdraw their accounts. At present this matter is practically left to the discretion of the committees, while the General Treasurer is charged with the responsibility of meeting the requirements of those committees who may have to overdraw their accounts; in other words, of making advances to them out of the aggregate funds of the other committees that may be in his hands. The Committee consider this to be a responsibility of which the General Treasurer should as far as possible be relieved. They are also decidedly of opinion that it is for the interest of the committees themselves that this matter should be strictly watched and guarded by the General Assembly, and that regulations should be established to place the financial arrangements of committees on such a footing as may render it unnecessary for them to run into debt. They would submit the following rules for the consideration of the General Assembly:—

1. That the General Treasurer shall make no advance to any committee without the express sanction of the Select Finance Committee.

2. That any committee requiring a temporary advance must apply for the same to the Select Finance Committee, stating the circumstances that render it necessary, the extent of it, and the time and manner in which they engage to repay it; and the Select Finance Committee shall be entitled to authorise such over-advances only on being entirely satisfied on all these points.

3. That all committees whose expenditure is not annually squared with their available funds, be required to form a fund, separate from their ordinary fund, to meet contingent or extraordinary demands; the amount of such fund, and the manner in which it should be formed and managed, to be matter of arrangement between this Committee and each of the committees concerned.

MINUTE OF ASSEMBLY THEREAFTER, 2D JUNE 1857.

The Assembly approve of the Report and of the proposed regulations to be observed in the case of committees requiring to overdraw their accounts, and appoint the said regulations to be intimated to the several committees.

MINUTE OF ASSEMBLY, 2D JUNE 1863, AS TO THE USE OF THE HALL AT THE  
OFFICES OF THE CHURCH.

*Use of Hall at  
the Offices.*

The General Assembly also finding that the New Hall has been finished by Mr. Maitland, and furnished at the joint expense of the Church and the Presbytery, think it proper to declare that the Presbytery of Edinburgh and Synod of Lothian and Tweeddale shall have a right, along with the Committees of the Church, to the stated use of the Hall, in terms of the memoranda by Mr. Maitland communicated to last General Assembly; it

being understood and provided that the Presbytery and Synod shall have a preferable right to the use of the Hall, not only on the days of their stated meetings, but on other days also, with the exception of the days on which the Committees of the Schemes of the Church hold their stated meetings.

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—  
*Property and  
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—

With these declarations, the General Assembly recommit the management of the Hall and Offices to the Finance Committee.

ANENT GENERAL TREASURER, 3D JUNE 1850.

The General Assembly grant power to the General Treasurer to discharge all legacies bequeathed to this Church.

General  
Treasurer

## APPENDIX VII.

### THE SUSTENTATION FUND, AND RELATIVE MATTERS.

#### 1. Existing Sustentation Fund Regulations.

##### *General Fund.*

APPENDIX  
VII. 1.

*Sustentation  
Fund.*

General Sustenta-  
tion Fund.

Act V. 1843.  
Act VII. 1844.

Widows' Fund  
Rates.

Equal Dividend.  
Act III. 1855.

Act V. 1843.

Supplements.  
Act III. 1865.

Act III. 1851.

Commission  
Nov. 1878.  
Grants to  
deceased  
Minister's  
relations.

1. The proceeds of the termly payments obtained through Associations, or by the visitation of Deacons and Collectors, shall be wholly remitted to the General Sustentation Fund.

2. This Fund, including all direct contributions to it by individuals, after defraying the expense of administration and agency, shall be permanently devoted to the object of a provision for ordained Ministers of the Free Church.

3. Before the Whitsunday of each year there shall be laid aside a sum for the payment of the yearly rates due by our Ministers to their Widows' Fund.

4. The plan of an Equal Dividend is better fitted than any other yet proposed to secure the ends for which the Sustentation Fund was instituted and is maintained; and, while it is desirable to adopt measures for preventing the decline of the Equal Dividend, through the failure of congregations to discharge their duty, these measures ought to be such as tend to preserve the general principle of the plan.

5. A discretionary power shall be possessed by the Committee intrusted with the distribution of the fund, to withhold a portion of the dividend in all cases in which it may clearly appear to them that the congregations are improperly diverting their whole means to their own local objects, and wilfully withholding their due contributions from the General Fund, of which they share the benefit.

6. The Assembly instruct the Sustentation Fund Committee, that in those cases in which the Supplement given to the ministers is large in proportion to the sum contributed to the Sustentation Fund, the Committee shall communicate with the parties, and shall use all proper means for having this state of matters rectified.

7. In no case whatever shall more than one stipend be paid out of the Sustentation Fund on account of one Ministerial charge.

8. When a Minister dies and leaves no widow,\* a grant of £60 from the Sustentation Fund shall be made to his sister, or his sister-in-law, or mother, or daughter, provided such sister, or mother, or daughter has been living for at least six months with the deceased Minister, and has during that time had charge of his house.

When at the time of his death a Minister has been receiving from the Sustentation Fund less than the Equal Dividend, his relations, as above stated, shall receive from that Fund a sum bearing the same proportion to the amount of his income from it as £60 bears to the Equal Dividend.

\* By resolution of the Sustentation Fund Committee in 1871, Widows are allowed a grant of £75.

*Vacant Congregations.*APPENDIX  
VII. 1.*Sustentation  
Fund.*

1. The Assembly grant power to the Committee to return to vacant congregations, in those cases in which they shall judge it to be necessary, some portion of the money which had been transmitted to the Sustentation Fund, to enable the congregations to pay Probationers. This permission has respect exclusively to the poorer class of congregations; and in no case shall the money so returned exceed the rate of £3 per month of the sum that may have been previously remitted by the congregation: and this permission to return money shall in no case be continued longer than six months.

Vacant Congregations.  
3d June 1851.  
Return of Money.  
Act III. 1854.

2. In reference to the filling up of vacant charges, the Assembly instruct Presbyteries, that at the first meeting after the vacancy shall have occurred, steps be taken, through a Committee or otherwise, to ascertain the state and working of the association in the vacant congregation: and before the congregation hold their meeting for the nomination of a minister to fill the vacant charge, the Presbytery shall make a report to the Sustentation Fund Committee (or, if they see fit, may instruct their Committee to report directly to the Sustentation Committee), in terms of the Committee's schedule framed for that purpose.

Filling up of  
Vacant Charges.  
Act III. 1851.

3. The General Assembly appoint that, on the occasion of a vacancy in any charge of this Church, the member of Presbytery who has been appointed to intimate the vacancy to the congregation, and whose duty it may be to call a congregational meeting for the purpose of taking steps to fill up the vacancy, as appointed in Act IV. Assembly 1859, shall intimate to the Secretary of the Sustentation Fund the time and place fixed for such congregational meeting, in order that the Sustentation Committee may, if they see cause, appoint a deputation to attend the said meeting, and bring the claims of the Sustentation Fund and its existing state and working in that congregation before the meeting.

Communication  
by Sustentation  
Fund Committee  
with vacant  
Congregations.  
Act IV. 1866.

4. The General Assembly hereby instruct Presbyteries that, hereafter, at the time of serving the edict for the moderation of a Call, the deliverance of the Sustentation Fund Committee shall be read from the pulpit, and that each newly ordained or inducted minister shall, immediately after his induction, be furnished by the Presbytery Clerk with a copy of the said deliverance.

Use of Deliverance of Sustentation Fund Committee before Calls and after Inductions.  
Act IV. 1866.

*Equal Dividend Platform.*

1. In the case of any non-self-sustaining congregation hereafter admitted on the platform of the Equal Dividend, the fact that such a congregation has failed to contribute the sum agreed upon, at its admission or at any vacancy thereafter, as its contribution shall, *ipso facto*, on the occurrence of a subsequent vacancy, form a ground for displacing it from the platform unless good cause be shown to the contrary.

Equal Dividend  
Platform.  
Act VI. 1861.

2. In the case of a non-self-sustaining congregation already on the platform of the Equal Dividend at the present date, the fact of its failure to contribute the sum agreed on at the last settlement shall, on the occurrence of the first vacancy after the passing of this Act, raise the question whether or not it shall be displaced from the platform, and shall, *ipso facto*, on the occurrence of any subsequent vacancy, form a ground for such displacement, unless good cause be shown to the contrary.

3. In every case of a non-self-sustaining congregation on the platform of the Equal Dividend, the following particulars shall raise the question on the occurrence of a vacancy, whether or not the congregation shall be excluded from that platform, viz.:—

(1.) That the amount of population in the district, or adhering to the Free Church therein, appears to be inadequate.

(2.) That another Free Church appears to be within reasonable distance.

APPENDIX  
VII. 1.Sustentation  
Fund.Platform—  
Special  
Committee.

(Act V. 1873.)

(3.) That the rate of contribution per communicant or adherent appears to be insufficient, as compared with the rate in congregations similarly circumstanced.

4. A Special Committee shall be appointed by the General Assembly for the purpose of considering and judging whether, when a vacancy occurs in a non-self-sustaining charge, there be reason for displacing it from the platform of the Equal Dividend.

This Special Committee shall consist of ten Ministers and ten Elders ; a third part of their number shall retire annually, of whom only one minister and one elder shall be again eligible until after the interval of a year ; and this rotation shall include the Convener.

5. The Presbytery of the bounds shall report to the Special Committee each case of vacancy in a non-self-sustaining congregation, and shall state in their report the facts that bear on any one or more of the particulars which, according to any Acts of Assembly, may raise the question of exclusion from the platform of the Equal Dividend in favour of some other congregation.

6. It shall be competent to the General Assembly to admit to the platform of the Equal Dividend of the Sustentation Fund a limited number of Church Extension Charges each year.

The number of said Charges, not being self-sustaining, admitted in any one year, shall not be more than six.

The Committee on the platform of the Equal Dividend shall report to the General Assembly, from year to year, such Charges as they would recommend to the General Assembly for admission.

The order in which such Charges shall be admitted shall, as a general rule, be regulated by the date of the first settlement of a minister, it being always open to the General Assembly to determine whether, considering the whole circumstances of each case, it be desirable to perpetuate any particular charge, by so admitting it to the platform of the Equal Dividend.

The Assembly further instruct the Committee on the platform of the Equal Dividend to report to the Commission in March the Congregations they recommend for admission.

When the Committee on the Platform of the Equal Dividend find that among the *Church Extension and Territorial Charges* which, in point of seniority, may be recommended by them to be placed on the platform of the Equal Dividend, there are one or more which have failed to contribute the minimum sum which was the condition of their being sanctioned as Ministerial Charges, or whose members do not amount to one hundred and fifty, it shall be competent to the Committee either to continue such Charges in their original position, or to propose that they shall receive annually from the Sustentation Fund a sum equal to the difference between the minimum sum fixed as the condition of sanction, and the Equal Dividend for the time being, and not in any case exceeding £100, in addition to the amount of their own contribution ; and if the Congregation and the Presbytery of the bounds give their assent to that proposal, such charges shall be continued on that footing ; but if either of these parties dissent, the case, or cases, shall be referred to the decision of the General Assembly.

When any of these Charges becomes vacant, the Platform Committee shall be entitled to raise the question whether it shall be continued as a Ministerial Charge, and on what footing.

When a Charge now on the Platform of the Equal Dividend becomes vacant, where the number of members is small, and where there does not appear to be the prospect of material increase, the Platform Committee shall raise the question whether it shall be continued as a Ministerial Charge ; and if they are of opinion that it shall be so continued, it shall be competent to them to recommend that it shall receive a grant of £100 annually from the Sus-

Act X. 1863.  
Admission of  
Church Extension  
Charges on  
the Platform.

(23d May 1871.)

Act VIII. 1875.



tentation Fund, in addition to the amount of its own contributions, if such an amount is needed to make up the Equal Dividend; and it shall be competent to continue the Charge on this footing.

The Assembly shall encourage and welcome partial endowments for such Charges, so as to admit of their being restored to the platform of the Equal Dividend.

7. All new Congregations which have for three years contributed to the Fund at or above £200 shall be held as self-sustaining, and shall be entitled to be placed on the platform of the Equal Dividend without any application on their part. The Assembly instruct the Platform Committee to include such Congregations in their Report to the Commission in March.

8. The General Assembly hereby enact and ordain, with consent of a majority of Presbyteries, that all applications from aid-receiving congregations for the appointment of Colleagues and Successors, which are made to the Commission in March, in terms of Act VIII. Assembly 1862, shall be transmitted by the Commission to the Special Committee on the Platform, to be dealt with in the same manner in which the Act VI. 1861 enacts that the said Committee shall deal with cases of vacancy, but with the proviso that, if the said Committee shall form an unfavourable judgment in any such case, with respect to those matters specified in the said Act, they shall report the judgment, and the grounds of it, to the General Assembly, as well as to the Presbytery of the bounds, and shall proceed no further in the case until the General Assembly shall have pronounced a judgment.

### *Surplus Fund.*

1. The surplus of the annual revenue of the Sustentation Fund, beyond what is required for payment of the Equal Dividend and other necessary charges, shall be distributed in accordance with the following regulations:—

(1.) That all Congregations which shall be found, at the close of the financial year of the Sustentation Fund, to have contributed to that Fund at and above a certain amount per member, shall be entitled to participate in the Surplus Fund, and that the average amount of these contributions shall be 10s. or more per member; and 7s. 6d. and under 10s. per member.

(2.) That the ministers of all Congregations which shall annually contribute the average amount per member of 10s. or more, shall receive an equal share of the Surplus Fund; and that the ministers of all Congregations which shall annually contribute the average amount of 7s. 6d., or any greater amount under 10s., shall also receive an equal share of the Surplus Fund; and the share to be received by the ministers of the Congregations which contribute at this second average amount shall be one-half of the share to be received by the ministers of the Congregations which contribute at the first and higher average amount, as thus:—

Suppose the Surplus Fund in any given year to amount to £18,000, and that 300 Congregations have contributed at the higher average, and 300 Congregations at the lower average above stated, each Minister of the former class of Congregations, in addition to the Equal Dividend of £150, would receive £40 from the Surplus Fund; and each Minister of the latter class of Congregations, in addition to the equal dividend of £150, would receive from the Surplus Fund £20.

(3.) That no Minister shall receive from the Surplus Fund a greater sum than £50. Any balance that may accrue after the Surplus has been allocated as above provided shall be employed in raising the Equal Dividend.

(4.) That no Congregation whose contribution to the Sustentation Fund amounts to less than £60 shall be entitled to participate in the Surplus Fund, except as above provided.

APPENDIX  
VII. 1.

*Sustentation  
Fund.*

Act V. 1878.  
Admission of New  
Self-sustaining  
Congregations to  
the Platform.

Act V. 1868.  
Appointment of  
Colleagues and  
Successors, with  
relation to the  
Platform.

Act IV. 1867.  
Surplus Fund.

APPENDIX  
VII. 1.*Sustentation  
Fund.*

## Surplus Fund.

(Act VI. 1874.)  
Return of  
Members and  
Adherents.

(5.) That the Sustentation Fund Committee shall report periodically to the General Assembly, as to the working of the whole Scheme, with a view to the adoption of such alterations and improvements as experience may show to be necessary or expedient.

2. (1.) The division of the Surplus shall be regulated by a return of members or adherents obtained immediately before the commencement of each year.

(2.) A Schedule and relative Regulations shall be prepared for the purpose of obtaining Returns, as at 31st March annually, from all Congregations, through the Presbyteries, of members or adherents; said Returns to be employed to regulate the division of the Surplus Fund ascertained at May in the year following.

(3.) The Roll of Communicants (or Members) in every Congregation, adjusted and completed to the date of production, shall be given in to the Presbytery of the bounds for attestation at 31st March yearly; the Clerk of Presbytery, after duly attesting the said roll, shall fill up the Schedule furnished by the Sustentation Committee with the number of communicants in each Congregation as shown by the attested roll, and shall then transmit the said Schedule as directed; and the number of communicants shall not be inserted in said Schedule unless the Communion Roll has been duly presented and attested.

(4.) In the Highlands and Islands, embracing the twenty-two Presbyteries mentioned hereafter in Rule 6, each Congregation shall give in to the Presbytery, along with the Communion Roll, a list of the whole adherents belonging to the Congregation, and the same shall be attested in the same manner as the Communion Roll; and the Presbytery Clerk shall then insert in the Schedule furnished by the Sustentation Fund Committee the number of adherents in each Congregation, as shown by the attested list; and the number of adherents shall not be inserted in said Schedule unless the list has been duly presented and attested.

(5.) The List of Adherents shall embrace not only seat-rent payers, and those who have sittings allocated to them, but all persons who, by their attendance at a particular church, make it to be understood that it is their habitual place of worship, and that they are connected with, or adhere to, the Congregation, including all those who, although they may be a part of the year absent, have their permanent home in the district.

(6.) In the Presbyteries of Tongue, Lochcarron, Skye and Uist, and Lewis, —in the Congregations of Coll, Iona, Strontian, Tobermory, and Torosay, in the Presbytery of Mull,—in the Congregation of Ardochattan, in the Presbytery of Lorn,—in the Congregations of Fort-Augustus and Kilmalie, in the Presbytery of Abertarff,—and in the Congregations of Assynt, Lairg, and Stoer, in the Presbytery of Dornoch,—the list of adherents shall contain all persons who are *above eighteen years of age*, and *one-half* of the number of such adherents shall be held as equivalent to the number of members or communicants in the Lowlands, for the purpose of ascertaining the rate of contribution to the Sustentation Fund with reference to the division of the Surplus; and a rate of contribution of four shillings shall entitle the Ministers of these Congregations to one share of the Surplus, and a rate of six shillings to two shares.

In the remaining Congregations not specified above of the Presbyteries of Mull, Lorn, Abertarff, and Dornoch, and in the Presbyteries of Dunoon, Inveraray, Kintyre, Islay, Breadalbane, Abernethy, Elgin, Forres, Nairn, Inverness, Chanonry, Dingwall, Tain, and Caithness, the list of adherents shall embrace all persons who are *above eighteen years of age*, and *three-fifths* of the number of such adherents shall be held as equivalent to the number of members or communicants in the Lowlands, in reference to the division

of the Surplus to Ministers whose Congregations contribute at the rate of seven shillings and sixpence, or ten shillings respectively.

(7.) In the roll of communicants and list of adherents those persons shall be indicated who are in the receipt of aid from the Parochial Board, and the number of them may be deducted from the total number returned for each Congregation by the Presbytery Clerks. Presbytery Clerks must return the whole number of communicants and adherents, but note the number of paupers in the column headed "No. of Paupers."

(8.) It shall be open to the Committee, where they see cause, to institute such inquiry as may appear necessary, in order to verify the accuracy and completeness of the returns.

(9.) When no return of members or adherents is made for any Congregation, its minister shall not participate in the division of the Surplus Fund, with a view to which the return is made; and it shall not be open to such Congregation to supply the defect at a future time, so as to establish a claim on the Surplus Fund for that year.

(10.) The production to the Presbytery of Rolls of Communicants and Adherents, as above provided, shall be imperative on every congregation, and shall not depend on their right or claim to participate in the Surplus Fund; and the Sustentation Fund Committee shall report to the General Assembly every year those Congregations from which returns of members or of adherents duly certified by the Clerks of Presbytery have not been received.

A Schedule will be issued by the Committee to Clerks of Presbyteries, and appointed to be filled up in conformity with the foregoing Regulations, and returned to the Committee on or before 14th April, and Ministers should see that their Communion Rolls and Lists of Adherents are lodged with the Clerks of Presbytery in due time for making this return.

3. Presbyteries shall make the state of the membership in their several Congregations the subject of careful inquiry at the end of every year.

Act IX. 1876.  
Presbyterial  
Inquiry into  
Membership.

They shall obtain from Kirk-Sessions an annual return as at 31st March, certified by the minister and Kirk-Session, showing—

The number of members at the beginning of the year.

The number added during the year by admission or transference.

The number struck off by death, removal, the exercise of discipline, or any other cause.

The number remaining at the end of the year.

They shall transmit an abstract of such returns, along with the yearly Presbyterial returns of members and adherents appointed to be made in connection with the Surplus Fund Plan, to the Sustentation Fund Committee, who shall tabulate the same, and report thereon to the General Assembly; and on transmitting the abstract of the congregational returns, the Presbyteries shall make such remarks or explanations as appear to be called for.

Schedules shall be supplied to Kirk-Sessions and Presbytery Clerks for the purpose of making such returns.

4. Except to make up the Equal Dividend to Ministers whose congregations are on the platform of the Equal Dividend, no Minister shall receive from the Sustentation Fund, including the Surplus Fund, more than £100 beyond the amount contributed by his congregation.

Act III. 1877.  
Surplus in  
Charges not on  
Platform—Non-  
self-sustaining.

This rule shall not be retrospective in its operation, but shall apply to all Ministers hereafter inducted, or to those who may hereafter be entitled to share in the Surplus Fund.

This rule shall apply to Ministers of Congregations who have been inducted under the regulations of Act VIII. 1875.

APPENDIX  
VII. 1.

Sustentation  
Fund.

Surplus Fund.

APPENDIX  
VII. 1.*Sustentation Fund.*

Act VI. 1869.  
Self-Supporting  
Charges not on  
the Platform of  
the Equal  
Dividend.

5. With regard to Congregations not on the platform of the Equal Dividend, which are self-supporting, and which now receive back their contributions up to the amount of the Equal Dividend, such Congregations shall further be entitled to receive back their own contributions to the extent of either of the two classes of the Surplus Fund, provided their rates of contribution are equal to, or exceed those prescribed as entitling Congregations to participate in that Fund.

*Supplementary Sustentation Fund.*

The Assembly instruct the Committee to use all proper means for promoting the new branch of the Sustentation Fund, entitled "The Supplementary Sustentation Fund," adopted at a former diet of this Assembly, as laid down in the following regulations:—

Supplementary  
Sustentation  
Fund.  
Act V. 1873.

1. That a branch of the Sustentation Fund be instituted, to be called "THE SUPPLEMENTARY SUSTENTATION FUND."

2. That all donations and bequests to this Supplementary Fund shall be invested, and the interest or annual proceeds only shall be available for the purposes to which the fund is to be applied.

3. That this fund shall form no part of the fund for the Equal Dividend, which shall continue as heretofore, to depend on the produce of the Congregational Associations, together with such donations or legacies as may be specially destined for its use.

4. That the object of the Supplementary Fund shall be to assist in securing a stipend of £160 for those ministers of sanctioned charges not on the platform, whose stipend, from all other sources, is less than that amount, and whose congregations shall comply with the conditions of the fund.

The General Assembly instruct the Sustentation Fund Committee to give grants of £40 each to each of the six charges in Shetland not on the platform of the Equal Dividend; and £30 in order of seniority to Church Extension charges not on the platform in such number as shall exhaust the annual income of the fund—it being understood that the charges thus assisted, with the exception of those in Shetland, shall be required to make good the terms on which they received sanction, and that the contributions to the Sustentation Fund shall be at least an average of 10s. per member; it being also understood that the grants from this fund shall not exceed what is necessary to make up the Equal Dividend to the ministers who receive them. It being also understood that the following classes of Congregations shall be excluded from participating in the fund, viz.:—Those that are self-sustaining, or nearly so, and those that were sanctioned under express condition that they should have no claim on any of the public funds of the Church. The Assembly further authorise the Committee to modify the conditions on which the grants are given, on good cause shown, in order to meet cases where there is a material alteration in the circumstances of the Congregations.

APPENDIX  
VII. 2.*Aged and Infirm  
Ministers' Fund.*

Act IV. 1848.

## 2. Aged and Infirm Ministers' Fund.

The General Assembly cordially approve of the recommendation contained in the 3d section of the Report of the Select Committee, to create by donations and bequests a fund to be called "A Fund for Aged and Infirm Ministers of the Free Church of Scotland," out of the interest of which fund provision may be made for retiring allowances to aged and infirm ministers without burdening the Sustentation Fund, and the Assembly remit to the Sustentation Fund Committee to have the form of a bequest for the above purpose immediately prepared and extensively circulated.

ACT XI. 1863.—ACT ANENT THE AGED AND INFIRM MINISTERS' FUND.

APPENDIX  
VII. 2.

The General Assembly hereby ordain—

1. That the Aged and Infirm Ministers' Fund shall be distributed according to the following scale of allowances, viz. :—

*Aged and Infirm  
Ministers' Fund.*

Distribution—  
Grants for  
Colleagues.

	From Sustentation Fund.	From Aged and Infirm Ministers' Fund.
After less than 15 years' service, .	£60 0 0	.....
„ 15 years' service, . .	60 0 0	.....
„ 20 „ . .	60 0 0	£35 0 0
„ 25 „ . .	60 0 0	40 0 0
„ 30 „ . .	60 0 0	50 0 0
„ 35 „ . .	60 0 0	60 0 0
„ 40 „ . .	60 0 0	70 0 0
„ 45 „ . .	60 0 0	80 0 0

That the proportion given from the Sustentation Fund and the Aged and Infirm Ministers' Fund respectively shall, at intervals of five years, be adjusted according to the scale now exhibited, so that if a minister be invalidated after 20 years' service, he may receive £95 ; that is, £60 from the Sustentation Fund, and £35 from the Aged and Infirm Ministers' Fund—and this to be his annual income from the Church so long as he shall hold the status of one of its ministers. That, at the date of 25 years from his ordination, he shall receive £55 from the Sustentation Fund and £40 from the Aged and Infirm Ministers' Fund ; that is, so long as he survives, at intervals of five years, he shall receive the full allowance from the Aged and Infirm Ministers' Fund which accrues from his period of service, and only the balance from the Sustentation Fund. That the allowances to the Aged and Infirm Minister may be tabulated thus : Suppose a minister invalidated after 10 years' service, and to survive for 50 years after his ordination, he shall receive as follows :—

	AGED MINISTER.	
	Sustentation Fund.	Aged and Infirm Fund.
After 10 years from ordination, .	£60 0 0	.....
„ 15 „ . .	60 0 0	.....
„ 20 „ . .	25 0 0	£35 0 0
„ 25 „ . .	20 0 0	40 0 0
„ 30 „ . .	10 0 0	50 0 0
„ 35 „ . .	7 0 0	53 0 0
„ 40 „ . .	7 0 0	53 0 0
„ 45 „ . .	7 0 0	53 0 0

Or, taking the case of a minister invalidated after 25 years' service and surviving for 30 years, the rates of payment shall be as follows :—

	AGED MINISTER.	
	Sustentation Fund.	Aged and Infirm Fund.
After 25 years from ordination, .	£60 0 0	£40 0 0
„ 30 „ . .	50 0 0	50 0 0
„ 35 „ . .	40 0 0	60 0 0
„ 40 „ . .	30 0 0	70 0 0
„ 45 „ . .	20 0 0	80 0 0

2. That those who were admitted as beneficiaries on that fund previous to 1862 shall also be paid the sums respectively promised to them in such por-



APPENDIX  
VII. 2.*Aged and Infirm  
Ministers' Fund.*

tions, from the Sustentation Fund and the Aged and Infirm Ministers' Fund respectively, as are proposed in the report, but only after the lapse of five years from the date of their admission.

3. That at each General Assembly there shall be exhibited a State of the Fund, and of the claims upon it, in order that it may be ascertained to what extent new claims can be admitted.

4. That, when the payments to beneficiaries already on the fund exhaust the annual revenue, the dividend from the Sustentation Fund shall be equally shared between the aged and infirm minister and his colleague, in the case of new applications, until the Fund for Aged and Infirm Ministers, either by being increased in amount, or from the demise of some of the present beneficiaries, is in a position to admit new claims ; and that the admission of one or more such aged and infirm minister to the benefit of the fund, according to the scale embodied in this report, shall be regulated, 1st, By the minister's period of service ; that is, when two applications are of the same date, the minister who has served longest shall be preferred. 2d, But when a minister has had a colleague and successor for ten years, his claim shall be preferred to any other.

5. That no minister shall have any claim upon the Aged and Infirm Ministers' Fund, unless such claim has been adjudicated upon and admitted by the General Assembly ; it being understood that when such claim has been admitted by the Assembly the minister's allowance shall always be conformed to the scale fixed by these regulations, according to his period of service.

6. That in the case of any application to the General Assembly for a Colleague and Successor, involving a claim upon the Aged and Infirm Ministers' Fund, in which it may seem best to the Assembly that the aged and infirm minister should have an assistant rather than a colleague, it shall be competent to the Assembly to give a grant to him from the Aged and Infirm Ministers' Fund, that he may be in a condition to employ an assistant.

7. That all Acts and Regulations regarding the distribution of this fund, preceding this date, shall be, and are hereby, repealed, except that which provides that no person shall be admitted as a beneficiary on the fund until after he has been an ordained minister for at least twenty years.

8. The Assembly appoint the following Scale of Grants from the Aged and Infirm Ministers' Fund to aid in the employment of unordained assistants, namely :—

## I. To Ministers who receive the Larger Surplus Fund—

Up till 40 years after ordination,	£30.
At 40           "           "	£40.
At 45           "           "	£50.

## II. To Ministers who receive no Surplus Fund, or the Smaller Surplus—

Up till 30 years after ordination,	£30.
At 30           "           "	£35.
At 35           "           "	£40.
At 40           "           "	£45.
At 45           "           "	£50.

9. The General Assembly resolve, that, in every case of a grant from the Aged and Infirm Ministers' Fund, whether for a Colleague and Successor, or for the services of an Assistant, the grant shall hereafter be held as cancelled, if a period of two years shall be allowed to elapse without a Colleague having been called, or the services of an Assistant having been obtained.

Act VII. 1879.  
Grants for  
Unordained  
Assistants.Lapsing of  
Grants.



10. The General Assembly appoint that applications for aid from the Aged and Infirm Ministers' Fund shall be made to the General Assembly through the Presbytery of the bounds, and shall be submitted to the Commission of Assembly at its meeting in the month of March; and the Commission is hereby required to transmit such applications to the Sustentation Fund Committee, who shall report their opinion thereon to the General Assembly.

APPENDIX  
VII. 2.

*Aged and Infirm  
Ministers' Fund*

Applications.

11. The General Assembly adopt the following Regulations, viz.:—

(1.) All donations received from and after the 1st June 1871 shall not, as heretofore, be capitalised, but shall be available for immediate distribution, unless the donor shall have otherwise directed.

Application of  
Donations and  
Legacies.

(2.) All legacies bequeathed to this Fund, conveyed in testaments dated after the 1st June 1871, shall be available for immediate distribution, unless the testator shall have otherwise directed.

(3.) Testaments conveying bequests to this Fund, of date preceding the 1st June 1871, shall be interpreted as meaning, unless it be otherwise expressed, that the legacy is to be capitalised according to the constitution of this Fund as a capital Fund.

(4.) While the proportion of donations and legacies available for distribution, which shall be allocated in grants for any one year, must be determined by a more enlarged experience, in the meantime, and as an experimental trial, one-tenth of the amount of such donations and legacies, for the time being, may be allocated annually in grants.

### 3. Chalmers Endowments.

#### REGULATIONS.

APPENDIX  
VII. 3.

*Chalmers  
Endowments.*

The General Assembly, upon considering the Regulations for the "Chalmers Endowments," did, and hereby do, adopt the same, as follows:—

Act IX. 1853.  
Regulations for  
the "Chalmers  
Endowments."

1. The Endowments shall be applied to the support of the Ministers in the poorest class of the new Territorial Churches of Glasgow, established or to be established in connection with the Free Church of Scotland.

2. The Endowments shall be regarded and dispensed as supplementary and additional to the stipend which may be derived from other sources.

3. The Endowments shall be granted to particular churches by the General Assembly, or the Commission thereof, on the united recommendation of the Glasgow Free Church Presbytery, and the Assembly's Sustentation Committee. (Act X. 1869.)

4. Every Endowment shall lapse on the occurrence of a vacancy in the pastoral charge, and also at the end of the periods fixed in the following regulations.

5. The grant of an Endowment may be renewed, after the lapse thereof, by the Assembly or their Commission, as often as such renewal shall appear to be necessary, and on the united recommendation as before.

6. When no vacancy takes place within ten years from and after the date of the first grant of an Endowment, or from and after the date of a renewal after a vacancy, the Endowment shall lapse at the end of that period.

7. When no vacancy takes place within five years from and after the date of a renewal which is not after a vacancy, the Endowment shall lapse at the end of that period.

8. No Endowment shall be granted or renewed in any case, unless the congregation gives reason to believe that it will not neglect the duty which it owes to its Minister, on the one hand, and to the General Sustentation Fund, on the other; and no Endowment shall be renewed after a vacancy,

APPENDIX  
VII. 3.*Chalmers Endow-  
ments.*  
—

unless the Assembly shall be satisfied that the church still belongs to the poorest class of Territorial Churches in Glasgow.

9. As soon as the number of Twenty Endowments shall be reached, the administration of the same shall be vested in the General Sustentation Committee of the Church, and shall be specially reported on every year to the General Assembly.

10. All questions arising with regard to the application, apportionment, regulation, and management of the Endowments, and with regard to the meaning and observance of the foregoing, or any future regulations, shall be finally settled by the General Assembly.

11. The foregoing regulations may be altered or repealed, and new regulations may from time to time be enacted, by the General Assembly.

Act X. 1869.

12. Every Endowment shall cease, where the income from a Territorial ministerial charge, from Sustentation Fund, ordinary collections, and seat rents, or offerings, as published in the yearly accounts of the Church, amount to, or exceed, the sum of £400 sterling with a manse, or of £450 sterling without a manse.

13. Each congregation receiving an Endowment, as a condition of receiving the interest of the grant thus assigned to it, shall transmit to the Sustentation Fund, for the maintenance of their minister, at least the sum fixed at the time of their receiving sanction by the General Assembly.

## APPENDIX VIII.

## APPENDIX VIII.

## WIDOWS' AND ORPHANS' FUND.

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*Widows' and  
Orphans' Fund.*


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ABSTRACT of Act of Parliament intituled "*The Free Church Ministers' Widows' and Orphans' Fund, Act, 1851,*" 14<sup>o</sup> and 15<sup>o</sup> Vict. Cap. 78.—Passed 24th July 1851.

*Widows' and  
Orphans' Fund  
Act, 1851.*

Whereas a general fund is annually contributed by the congregations of the body of Christians calling themselves the Free Church of Scotland, for the support of the ministers of the said Church, which fund is commonly called and known by the name of the Sustentation Fund, and another general fund is annually contributed by the congregations of the said Church for the support of professors holding professors' offices in any college connected with the said Church, which fund is commonly called and known by the name of the College Fund: And whereas the General Assembly of the said Church did, in terms of an Act of Assembly, dated the twenty-seventh day of May one thousand eight hundred and forty-six, form a scheme for raising out of the said general fund called the Sustentation Fund, and out of the said general fund called the College Fund, a fund for the purpose of making a provision for the widows and children of the ministers of the said Church, and for the widows and children of the professors holding professors' offices in any college connected with the said Church: And whereas a considerable sum has already been accumulated in pursuance of the said scheme for the purpose aforesaid: And whereas experience has shown that the said scheme and the administration thereof may be improved, and its objects more beneficially effected; but this cannot be done without the aid and authority of Parliament: it is enacted as follows:—

SECT. I. That there shall be raised and established a fund for making a provision for the widows and children of the ministers of the said Church, and of the professors holding professors' offices in any college in Scotland connected with the said Church, and with which the fund already raised shall be united and amalgamated; and which amalgamated fund shall be called "*The Free Church Ministers' Widows' and Orphans' Fund.*"

*Widows' and  
Orphans' Fund  
established.*

SECT. II. That the fund shall embrace two separate schemes, one for making a provision for the widows, to be called "*The Widows' Scheme,*" and the other for making a provision for the children, to be called "*The Orphans' Scheme.*"

*Object of  
Fund.*

SECT. III. That there shall be payable, out of the Sustentation Fund, for every minister of the said Church, now or hereafter holding a pastoral charge in Scotland, and admitted to any share of the Sustentation Fund, and also for every minister now or hereafter *emeritus*, and out of the College Fund, for every professor now or hereafter holding a professor's office in any college in Scotland connected with the said Church, and admitted to any share of the College Fund, and also for every professor now or hereafter *emeritus*, an annual sum of five pounds to the Widows' Scheme, and an annual sum of two pounds to the Orphans' Scheme, payable at the term of Whitsunday immedi-

*Payments to the  
Fund.*

APPENDIX VIII. ately following the date of their induction or admission to a pastoral charge or professor's office respectively, and thereafter at the term of Whitsunday yearly, during the lifetime of each minister and professor, or until any such minister or professor shall cease to have any share of the Sustentation Fund or College Fund respectively.

*Widows' and Orphans' Fund.*

Payments to be made in respect of vacant Charges and Professors' offices.

SECT. IV. That there shall be payable at the term of Whitsunday in each year out of the Sustentation Fund for every pastoral charge in the said Church in Scotland which shall happen to be vacant at the said term, and out of the College Fund for every professor's office which shall happen to be vacant at the said term, the sum of five pounds to the Widows' Scheme and the sum of two pounds to the Orphans' Scheme : Provided always, that when a pastoral charge or professor's office shall become vacant by the death, translation, resignation, or deprivation of any minister or professor who shall have been a contributor to the Widows' Fund of the Established Church of Scotland, no payment in that event shall be made on account of such pastoral charge or professor's office whilst so vacant : Provided also, that no payment shall be made for any vacant pastoral charge or professor's office after the same shall be formally suppressed as a pastoral charge or professor's office, or combined and incorporated with another pastoral charge or professor's office, by or under the authority of the General Assembly.

Casual Payments to the Fund.

SECT. V. That there shall be payable to the Widows' Scheme out of the Sustentation Fund for every minister, and out of the College Fund for every professor,

Entry Money.

(1.) A sum of ten pounds for every minister and professor who shall be inducted or admitted to a pastoral charge or professor's office for the first time, or who subsequently to his having forfeited the right and interest of his widow and children in the fund, shall be again inducted or admitted to a pastoral charge or professor's office, the said sum being payable in two equal instalments, namely, five pounds at the first term of Whitsunday, and five pounds at the second term of Whitsunday, after the date of his induction or admission ; provided such minister or professor shall survive the said terms of payment respectively :

Marriage Tax.

(2.) An additional sum for every minister or professor who shall marry or who shall be married at the time of his induction or admission to such pastoral charge or professor's office, for his first and every subsequent marriage as follows ; (that is to say), where such minister or professor is under forty-five years of age at the date of his marriage, or of his induction or admission if then married, a sum of five pounds at the first term of Martinmas happening after three months from such dates respectively ; and where such minister or professor is forty-five years of age or upwards at the date of his marriage, or of his induction or admission if then married, a sum of ten pounds in two equal instalments, namely, five pounds at the first term of Martinmas happening after three months from such dates respectively, and five pounds at the next term of Martinmas thereafter : Provided always, that if any such minister or professor shall marry a widow who at the time of her marriage with him shall be in receipt of an annuity from the Widows' Scheme, no payment shall be made to the Widows' Scheme in respect of such marriage.

Payments to be preferable Burdens on the Sustentation Fund and College Fund.

SECT. VI. That the whole of the annual and other sums before specified shall form preferable burdens on the Sustentation Fund and College Fund respectively.

Act to apply to Colleagues, Colleagues and Successors, and Assistants and Successors.

SECT. VII. That this Act shall extend and apply to persons and to the widows and children of persons holding the office of colleague, colleague and successor, or assistant and successor to a minister or professor, provided such persons shall and do enjoy the full status and functions of a minister or professor, and shall be admitted to any share of the Sustentation Fund or College Fund respectively, but not otherwise.

SECT. VIII. That in the event of any minister or professor ceasing, from whatever cause, to have any share of the Sustentation Fund or College Fund, it shall nevertheless be in his power to continue the right of his widow and children to the benefits of the Widows' Scheme and Orphans' Scheme, by paying regularly the annual and other sums which would otherwise have been payable out of the Sustentation Fund or the College Fund in terms of sections III. and V. of this Act, with interest as aforesaid, and by complying fully with the other provisions of this Act: Provided always, that if such minister or professor shall have failed, from whatever cause, at two successive terms of payment to make payment to the fund of such annual contributions, his widow and children shall *ipso facto* forfeit and lose all right and interest in the Widows' Scheme and Orphans' Scheme, and shall not be entitled to any benefit therefrom whatsoever.

SECT. IX. That those ministers or professors who have, prior to the passing of this Act, ceased to have any share of the Sustentation Fund or College Fund, and who have not forfeited the right and interest of their widows and children under the scheme formed by the General Assembly, shall be entitled likewise to continue the right and interest of their widows and children to the benefits of the Widows' Scheme and Orphans' Scheme established by this Act, and that in the same manner, and subject to the same proviso as to forfeiture, as in the case of ministers and professors hereafter ceasing to have any share of the Sustentation Fund or College Fund.

SECT. X. That those ministers and professors who are contributors to the Widows' Fund of the Established Church of Scotland, and their widows and children, shall be excepted from the Widows' Scheme and Orphans' Scheme established in virtue of this Act.

SECT. XI. Appoints trustees (and their convener) for managing the fund, and incorporates them and their successors in office as one body politic and corporate by the name and style of "The Trustees of the Free Church Ministers' Widows' and Orphans' Fund."

SECT. XII. Regulates the election of new trustees in room of the two senior trustees who go yearly out of office, the filling up of casual vacancies, and the election of the convener.

SECT. XIII. Regulates the meetings of the trustees (three being a quorum) and empowers them to appoint committees of their number.

SECT. XIV. Empowers the trustees to appoint a treasurer and an actuary or auditor.

SECT. XV. Prescribes the general duties of the treasurer.

SECT. XVI. Provides for the keeping of the books and making up the accounts of the fund and lists of the progressive changes in the family statistics of the ministers and professors.

SECT. XVII. That in order to enable the treasurer to keep a full and correct record of the statistics of the fund, it shall be incumbent on each person holding the office of clerk to any presbytery of the said Church to report to the treasurer, in such form as shall from time to time be prescribed by the trustees, such changes as may occur within the bounds of the presbytery of which he is clerk with respect to the induction, translation, resignation, deprivation, or death of any minister or professor, and that half-yearly, on the first day of May and first day of November respectively, bringing down the report of such changes at least to the first day of April and first day of October immediately preceding; and every minister or professor shall, within two months after his induction or admission to a pastoral charge or professor's office, make a return to the treasurer, accompanied by such certificates as shall be required by the trustees, stating the following particulars, in so far as they apply to his case, namely, the date of his ordination and induction, the date of his birth, the name of his wife, and the date of her birth, the name and date of the birth of each child alive, and the date of the birth

# APPENDIX VIII.

## Widows' and Orphans' Fund.

Ministers or Professors hereafter ceasing to have Shares of the Sustentation Fund or College Fund may continue the Rights of their Widows and Children.

Ministers or Professors who have ceased to have Shares in the Funds may continue their Rights.

Parties excepted from the Fund.

Trustees appointed and incorporated.

Trustees to go out of Office by Rotation.

Meetings and Quorum of Trustees.

Treasurer and Actuary.

Duties of Treasurer.

Books, etc.

Returns to be made by Presbytery Clerks and Ministers and Professors.

APPENDIX VIII.	and death of each child deceased; and every minister or professor shall in the month of August in each year make a return to the treasurer, also accompanied by such certificates as shall be required by the trustees, of the particulars of such changes as shall have occurred in the state of his family during the year preceding the first day of August annually, according to the form of the schedule hereunto annexed, or certify that no such change has taken place.
Widows' and Orphans' Fund.	
Penalty for failure of Ministers or Professors to make returns.	SECT. XVIII. That in the event of a minister or professor failing to make such returns, his right to the share that would have been payable to him at the ensuing term of Martinmas from the Sustentation Fund or College Fund respectively shall <i>ipso facto</i> be suspended; and the treasurer shall, on or before the fifth day of November in each year, furnish a list of any ministers or professors who shall have failed to make such returns to the treasurer of the Sustentation Fund or College Fund respectively, who thereupon shall withhold payment of the share which would otherwise have been due to such parties respectively until it shall be intimated to him by the treasurer that the requisite returns have been made.
Moneys to be deposited in Bank.	SECT. XIX. That the trustees shall from time to time name a bank in Edinburgh, in which the moneys of the fund shall be deposited on an account to be opened in their name, to be operated upon by drafts signed by two of the trustees and the treasurer; and the treasurer shall never at any time retain in his hands more than fifty pounds of the money belonging to the fund.
Funds vested in the Trustees.	SECT. XX. Provides that the whole moneys belonging to the fund shall vest in the trustees and not be affectable by the debts or deeds of ministers and professors, and shall be protected against all legal diligence at the instance of their creditors or any other person.
Donations and Bequests to be allocated.	SECT. XXI. That all donations or bequests to or for the general purposes of the fund shall be allocated and applied by the trustees in the proportion of five pounds to the Widows' Scheme and two pounds to the Orphans' Scheme, unless otherwise directed by the persons giving or bequeathing such donations or bequests.
Investment of the Funds.	SECT. XXII. Regulates the powers of the trustees as to the investment of the moneys belonging to the fund.
Trustees may prosecute diligence and enter into arbitrations.	SECT. XXIII. Empowers the trustees, by their corporate name, to prosecute all legal diligence, and to enter into submissions or arbitrations for and in relation to the fund, and all matters and things connected therewith.
Annual Report to be laid before the General Assembly.	SECT. XXIV. That the trustees shall prepare, and lay before the General Assembly at their ordinary annual meeting, a report on the state and progress of the fund, and showing generally how the moneys are invested, and the respective rates of interest payable thereon, which reports, along with such lists or abstracts as may be necessary to explain the same, shall at the same time be printed for circulation, and copies thereof shall be furnished by the treasurer, free of any charge, to ministers and professors applying for the same at the office of the fund.
Periodical Investigation of the Affairs of the Fund.	SECT. XXV. Provides that the affairs of the fund shall be investigated periodically by the actuary or auditor.
Periods of Investigation.	SECT. XXVI. Provides that each investigation shall be made as at the fifteenth day of May not sooner than seven nor later than ten years from the date of the immediately preceding investigation, unless circumstances shall arise which in the opinion of the trustees render it desirable to make an earlier investigation, in which case they shall have power to direct an investigation to be made within an earlier period than seven years.
Liabilities of Trustees and Members of the Presbyteries of Edinburgh and Glasgow.	SECT. XXVII. That neither the trustees nor the members of the said presbyteries of Edinburgh and Glasgow shall be liable for omissions, or for acts done by them <i>bonâ fide</i> in the execution of their duties under this Act, or for the solvency of the persons to whom moneys shall be lent out, or of the banks in which moneys shall be deposited, or for the sufficiency of securities



and investments, or in *solidum*, but each only for his own actual intromissions, and the trustees shall be paid and indemnified out of the fund for all necessary expenses to which they may be put in the execution of their office.

SECT. XXVIII. Empowers the trustees to make bye-laws and regulations for beneficially administering the fund, subject to the approval of the members of the Presbyteries of Edinburgh and Glasgow: Provided always, that such bye-laws and regulations shall not be repugnant to the law of Scotland, or to the true intent and meaning of this Act.

SECT. XXIX. That in every case where interest is made payable by this Act, such interest shall be calculated and paid at the rate of five pounds per centum per annum.

SECT. XXX. That the whole sums which have already been accumulated for making a provision for the widows of ministers and professors under the scheme formed by the General Assembly, and all sums due to the said scheme for the said purpose, and outstanding at the passing of this Act, and also the whole annual and other sums payable to the Widows' Scheme under this Act, and all donations or bequests to the said Scheme, together with the interests and dividends, and every profit and increase that may accrue thereon, shall form one aggregate fund, out of which there shall be paid, in the first place, subject to the proviso in Section XXXII. of this Act, the expenses incurred in the administration of the Widows' Scheme and Orphans' Scheme; and in the second place, to each of the widows now upon the said Scheme formed by the General Assembly, and to the widow of any minister or professor who has, prior to the passing of this Act, ceased to have any share of the Sustentation Fund or College Fund, and who may not have forfeited the right and interest of his widow and children as aforesaid, and to the widow of every minister and professor now or hereafter holding a pastoral charge or professor's office in Scotland, and who is now, or who shall be in time coming, admitted to any share of the Sustentation Fund or College Fund respectively, and to the widow of every minister and professor now or hereafter *emeritus* (subject always to the provisions, conditions, and exceptions specified in Sections VII., VIII., IX., X., and XXXIII. of this Act), an annuity of twenty-seven pounds, payable in equal portions half-yearly, at the terms of Whitsunday and Martinmas, during the life of each widow, the first half-yearly payment of the said annuity being due and payable at the term of Martinmas one thousand eight hundred and fifty-one in so far as regards each of the widows now upon the said Scheme formed by the General Assembly, and at the term of Whitsunday or Martinmas immediately following the date of her husband's decease in so far as regards each of the other widows above mentioned; and in every case the last term's payment of such annuity shall be due and payable at the term of Whitsunday or Martinmas immediately preceding the death of each widow: Provided always, that if any such widow shall marry, she shall thereby lose all right to any annuity, or other allowance, from the Widows' Scheme, from and after the term of Whitsunday or Martinmas immediately preceding her marriage, unless and until she shall again become entitled as the widow of another minister or professor: Provided also, that no widow shall in any case be entitled to more than one annuity at one time.

SECT. XXXI. That the whole sums which have already been accumulated for making a provision for the children of ministers and professors under the Scheme formed by the General Assembly, and all sums due to the said Scheme for the said purpose, and outstanding at the passing of this Act, and also the whole annual and other sums payable to the Orphans' Scheme under this Act, and all donations or bequests to the said Scheme, together with the interest and dividends and every profit and increase that may accrue thereon, shall in like manner form one aggregate fund, which fund shall, subject to the proviso in Section XXXII. of this Act, be solely chargeable with an annuity to each of the children now upon the said Scheme formed by the

APPENDIX VIII.

Widows' and  
Orphans' Fund.

Bye-laws and  
Regulations may  
be made.

Rate of Interest  
to be paid

Annuities to  
Widows.

Annuities to  
Children.

APPENDIX VIII. General Assembly, and to the lawful children under eighteen years of age, the issue of deceasing ministers or professors who have prior to the passing of this Act ceased to have any share in the Sustentation Fund or College Fund, and who may not have forfeited the right and interest of their widows and children as aforesaid, and to the lawful children under eighteen years of age, the issue of deceasing ministers and professors now or hereafter holding a pastoral charge or professor's office in Scotland, and who are now or who shall be in time coming admitted to any share of the Sustentation Fund or College Fund respectively, and to the lawful children under eighteen years of age the issue of deceasing ministers and professors now or hereafter *emeriti* (subject always to the provisions, conditions, and exceptions specified in Sections VII., VIII., IX., X., and XXXIII. of this Act), in manner following; (that is to say), where the father has died or shall die leaving a widow, whether such widow shall be the mother of all or any of his children or not, there shall be paid to each child an annuity of ten pounds in equal portions half-yearly, at the terms of Whitsunday and Martinmas, the first half-yearly payment of the said annuity being due and payable at the term of Martinmas one thousand eight hundred and fifty-one in so far as regards each of the children now upon the said Scheme formed by the General Assembly, and at the term of Whitsunday or Martinmas immediately following the date of the father's decease in so far as regards each of the other children above mentioned; and in case such widow shall predecease the period of any such child attaining the age of eighteen years complete, then the annuity so payable to each child shall be increased to fifteen pounds, commencing the payment of the increased annuity at the first term of Whitsunday or Martinmas after such widow's decease, and continuing the payment thereof at the terms before mentioned; and where the father has died or shall die without leaving a widow, then there shall be paid to each of his orphan children an annuity of fifteen pounds payable in the same manner and at the same terms as in the case of the annuity of ten pounds; and the payment of all such annuities shall cease at the term of Whitsunday or Martinmas immediately preceding the date at which each child shall attain the age of eighteen years complete, or immediately preceding the date of each child's death before attaining that age: Provided always, that such children shall be entitled to their annuities of ten pounds, although the widow of their father shall enter into a second or any subsequent marriage; but no child in any case shall be entitled to more than one annuity.

Proviso as to  
Expenses of  
Management.

SECT. XXXII. Empowers the trustees to charge the Orphans' Scheme with the whole or any part of the expenses incurred in the management and administration of the Widows' and Orphans' Schemes.

Annuities to be  
subject to Altera-  
tion and Deduc-  
tion of Arrears of  
Contributions.

SECT. XXXIII. That the annuities to widows and children above specified shall be subject to diminution and increase, in manner herein provided for; and the annuities shall further be subject at all times to deduction of any arrear, not amounting to two years' contributions, due at the time of his death by any minister or professor, who shall have ceased to have any share of the Sustentation Fund or College Fund.

Alteration of  
Annuities.

SECT. XXXIV. That if after making any of the periodical investigations hereinbefore provided for, it shall be reported by the actuary that an alteration should be made upon the annuities then payable, the trustees shall forthwith cause the actuary's report to be printed, and transmitted to each member of the said Presbyteries of Edinburgh and Glasgow, with a circular calling a special meeting of said members to be held on a day not less than one month and not more than two months after the date of such circular, for the purpose of considering the said report; and the members present at such meeting or at any adjourned special meeting shall have power to increase or diminish the rates of annuity according to the recommendation of the actuary or to do otherwise as may appear to them most advisable under the circumstances.

SECT. XXXV. That in the event of any alteration being made as herein-  
before provided on the amount of the annuities, the altered annuities shall  
commence to be paid at the term of Whitsunday or Martinmas which shall  
first happen after the amount thereof shall have been so altered.

APPENDIX VIII  
—  
*Widows' and  
Orphans' Fund.*  
—

SECT. XXXVI. Declares the annuities payable to widows and children to  
be alimentary provisions, and not affectable by their debts or deeds, nor  
subject to arrestment or other legal diligence at the instance of their creditors;  
and in case any such widow shall be under any legal or natural disability to  
discharge the same, or in case any such children shall have no tutors or cura-  
tors, the trustees are empowered to name any two or more persons as trustees  
to manage and apply the annuities.

Annuitants to  
Widows and Chil-  
dren not affectable  
by their Debts,  
nor subject to  
Arrestment

SECT. XXXVII. That in citing this Act in other Acts of Parliament, and  
in legal deeds, instruments, and proceedings, it shall be sufficient to use the  
expression "The Free Church Ministers' Widows' and Orphans' Fund Act,  
1851."

Short Title.

SECT. XXXVIII. That in this Act the following words and expressions  
shall have the several meanings hereby assigned to them, unless there be  
something in the subject or context repugnant to such construction; (that is  
to say),

Interpretation  
of Terms.

The word "Fund" shall mean "The Free Church Ministers' Widows' and  
Orphans' Fund" to which this Act relates:

The word "Trustees" shall mean "The Trustees of the Free Church  
Ministers' Widows' and Orphans' Fund" hereby incorporated:

The expression "said Church" shall mean the said Free Church; and the  
expression "General Assembly" shall mean the General Assembly of  
the said Church:

The word "Minister" shall mean a minister of the said Church now or  
hereafter holding a pastoral charge in Scotland, and who is now or shall  
be in time coming admitted to any share of the Sustentation Fund, and  
shall include "Colleague," "Colleague and Successor," or "Assistant  
and Successor" to a minister, subject to the proviso in Section VII. of  
this Act; and the expression "Pastoral Charge" shall include the charge  
of such "Colleague," "Colleague and Successor," and "Assistant and  
Successor:"

The word "Professor" shall mean a professor now or hereafter holding a  
professor's office in any college in Scotland connected with the said Church,  
and who is now or shall be in time coming admitted to any share of  
the College Fund, and shall include the "Head or Principal" of any  
College connected with the said Church, and also "Colleague,"  
"Colleague and Successor," or "Assistant and Successor" to a principal  
or professor, subject to the proviso in Section VII. of this Act; and the  
expression "Professor's Office" shall include the office of such "Head or  
Principal," "Colleague," "Colleague and Successor," and "Assistant and  
Successor:"

The expression "Sustentation Fund" shall mean the general fund pro-  
vided by annual contribution or otherwise for the support of the  
ministers of the said Church, by whatsoever name it shall be called:

The expression "College Fund" shall mean the general fund provided by  
annual contribution or otherwise for the support of the professors of the  
said Church, by whatsoever name it shall be called:

The words "Treasurer" and "Actuary" or "Auditor" shall mean the  
treasurer and actuary or auditor appointed by the trustees for the time  
being, and shall include interim treasurer and interim actuary or auditor.

SECT. XXXIX. That the expenses incurred in applying for and obtaining  
this Act and incident thereto shall be paid by the trustees out of the fund.

Expenses of Act.

## APPENDIX VIII.

*Widows' and  
Orphans' Fund.*

## SCHEDULE REFERRED TO IN THE FOREGOING ACT.

## ANNUAL RETURN

Of  
Minister [*or* Professor] of  
Presbytery of  
Year preceding 1st August 18

Date of Marriage, specifying whether }  
First or Second Marriage, . . . }  
Wife's Maiden Name, . . . .  
Date of Wife's Birth, . . . .  
Date of Wife's Decease . . . .  
Name and Date of Birth of each Child }  
born, . . . . . }  
Name and Date of Death of each Child }  
dying, . . . . . }

I hereby certify that the above is a correct return of the changes that have occurred in the state of my family during the year preceding the first day of August 18

(Signed)

## ACT VIII. 1851.—ACT ANENT THE WIDOWS' AND ORPHANS' FUND.

The General Assembly having heard the Report of the Committee appointed to examine the Bill now before Parliament, entitled "An Act for the better raising and securing a Fund for a Provision for the Widows and Children of the Ministers of the Free Church of Scotland, and for the Widows and Children of the Professors holding Professors' offices in any College connected with the said Church;" and being satisfied that by the passing of the said Bill, the rights arising under the Widows' and Orphans' Schemes as already constituted will be duly secured and provided for, and the said Schemes, and the administration thereof, improved, and their objects more beneficially effected, did and hereby do approve of the said Bill, and consent that the same shall be passed into a law, subject to any alterations or amendments which may be made by Parliament thereon, with the sanction of the Committee of Management of the Fund; and in testimony of their consent to the passing thereof, instruct the Clerks of Assembly to subscribe a copy of the Bill in name of the Assembly, and in the event of any such amendments being so made, instruct them also to subscribe a copy of the Bill as so amended.

Further, the General Assembly did and hereby do enact and declare, that from and after the passing of the said Bill, with alterations and amendments, if any, as aforesaid, into a law, the Act of the General Assembly of 27th May, 1846, Session 16, entitled "Act anent the Widows' and Orphans' Fund," with the whole clauses and enactments thereof, shall be, and the same is hereby repealed, and declared to be of no force, strength, or effect whatsoever, excepting as after mentioned; and that the said Bill, upon its being passed into a law, shall be, and the same is hereby declared to be, in room and place of the said Act of Assembly,—reserving always full power, force, and effect to the said Act of Assembly, in so far as regards the second instalments due at Whitsunday 1852, of sums payable to the Widows' Scheme in terms of Section Third of the said Act of Assembly, in respect of the admission and marriage of Ministers and Professors.

## APPENDIX IX.

## MISSION FUNDS AND SCHEMES.

## 1. Collections Appointed by the Assembly.

*Usual terms of Act as to chief particulars.*

The General Assembly,—considering that, according to the Word of God, the propagation of the glorious Gospel at home and abroad is at once the highest duty and the most blessed privilege of the Church of Christ; considering also the present state of the country and of the world, and the opportunities thus presented to God's believing people of being instrumentally useful in the Lord's cause, appoint the following Collections to be made during the ensuing year, in all the Congregations of the Free Church of Scotland:—

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Provided always, that whenever the celebration of the Sacrament of the Lord's Supper falls on any of the Sabbaths hereinbefore specified, the Collection shall be made on the Sabbath immediately preceding, or on the Sabbath immediately following. And the Assembly enjoin every Minister or Probationer supplying ordinances in any congregation on the Sabbath preceding that on which each Collection is to be made, duly to intimate and recommend the same to the Congregation.

The General Assembly appoint this Act to be read from the pulpit to every Congregation within the bounds of the Church, on the first Sabbath after the receipt thereof, or, where it is the Communion Sabbath, on the first Sabbath thereafter.

And the General Assembly, whilst reminding the Congregations what a blessed thing it is to be God's instruments in spreading and building up the kingdom of our Lord Jesus Christ, would affectionately urge upon them the duty of embracing the opportunities furnished by these Collections of contributing cheerfully and liberally a suitable portion of the worldly substance of which God has made them stewards; and further, of accompanying their contributions with their special prayers, that these Collections may, by the blessing of God, accomplish the purposes for which they are appointed to be made, and that wisdom from above may be vouchsafed to all those to whom is intrusted by the Church the management of her different Schemes; so that the Free Church of Scotland, both by her dutiful and incumbent payments into the Lord's Treasury, and the wise management of that Treasury, may be honoured to do her Lord's will in these matters, and promote His cause in the world.

Also, the General Assembly appoint that the several Presbyteries shall require an account of the diligence of all their ministers in this matter, noting in their records every case of omission to collect for any of the Schemes, along with the reasons assigned by the minister, and their opinion

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of said reasons ; and likewise ordain the several Synods to take a particular account of the diligence of their respective Presbyteries, and record it in their Synod Books. The Assembly further direct the Treasurer of the Church to transmit to the Clerks of Assembly, as soon as possible after the 31st March, a list of those Congregations who have failed to make the Collections appointed by the General Assembly to be made in the course of the year ending at said date ; and the Clerks are instructed to communicate immediately with those Presbyteries within whose bounds the said Congregations are situated ; and the said Presbyteries are hereby enjoined to send up a Report to the Clerks, not later than one week before the meeting of next General Assembly, stating the reasons assigned for such Collections not having been made, that the same may be laid before the Assembly.

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## 2. Home Mission Committee.

## EXISTING REGULATIONS.

*Mission Stations.*

## WORK OF PROBATIONERS.

25th May 1858.

*Sabbath-Day Services.*—1. The Probationer shall preach at least one thoroughly prepared discourse every Sabbath. In those Stations where it is usual to have two separate diets of worship, the other discourse shall be a careful exposition, with practical application, of a large portion of Scripture.

2. He shall personally superintend the work of Sabbath-School teaching, and have a Bible class of his own for the instruction of the more advanced scholars, which class may, if it is found expedient, be taught on a week-day evening.

3. Unless when his place is supplied by a Member of Presbytery or by another Probationer, he shall personally officiate in the Station every Sabbath, on no account leaving it vacant.

*Week-Day Duties.*—1. He shall devote three days of each week to household visitation, one of which, as occasion requires, will be devoted to the visitation of the sick or infirm, the remaining two days to be employed in ordinary pastoral visitation.

2. On each of these two days he shall visit at least six families, and devote such time to the visitation of those who adhere to the congregation as that he may visit each family *at least* once a year.

3. The time allotted for visitation which is not taken up with the families of the congregation, shall be devoted to the visitation of the families in the district, and especially of the careless and destitute. At least one day of each week, and if possible a portion of a second day, shall be devoted entirely to this work.

4. The visitation of such families, which is properly the Mission work of the Probationer, should be much more frequent than in the case of members of the Church, as frequent indeed as opportunities admit of.

5. The manner of conducting those visitations must be left in great measure to the discretion of the Probationer, but in every instance there ought to be some religious conversation, which may be raised and sustained by reading a portion of the Scriptures and catechising the young, and the visit should, ordinarily, be concluded with prayer. He shall also on such visits distribute tracts, to be supplied by the Home Mission Committee, especially among those who do not attend any church.

6. In Stations situated in rural districts, the Probationer shall hold a week-day evening prayer-meeting once a week in summer, and on moonlight



evenings in winter, in various localities in the district suitable for gathering together several neighbouring families.

7. In Stations planted in large villages and towns, a week-day evening prayer-meeting shall be conducted by the Probationer once a week in the Church or Preaching Station.

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#### PRESBYTERIAL SUPERINTENDENCE.

It is suggested to Presbyteries that they ought to make it part of their stated work to foster and encourage any Stations which may exist within their bounds. With this view the Committee take the liberty of requesting—

1. That they ask for a special Report every three months from the officiating Probationer, setting forth, according to the Regulations above specified, the work he is doing, and the progress or decline he may observe in the attendance of the people, and their interest in religion. Such Reports to be given orally by the Probationer; and the Presbytery, or a Committee of their number, to hold a conference with him on the condition of the Station, and to advise with him on his work.

2. That they commit the charge of each Station specially to one of the Ministers, who shall, on a week-day evening, once in three months, visit the Station, conduct its prayer-meeting, and confer with the Office-bearers, or those acting as such, on the state and prospects of the Station. At this meeting, and with the aid of the Probationer, the financial state of the congregation, as to the amount of its contributions, etc., shall also be considered, and such directions given as may be necessary. The expenses necessarily incurred by Ministers in this work to be defrayed by the Home Mission Committee.

3. That they appoint the Ministers in rotation to preach in the Stations on a Sabbath-day at least once every three months, the Probationer on that day taking the place of the Minister officiating at the Station.

4. That they, as concerned in the progress of the Lord's work, observe whether there be any rural district within their bounds in which it would be desirable to erect a Station, and endeavour to obtain access to the people in it by occasional week-day evening services and regular Sabbath evening services, at least during the summer season, which services may be conducted in the open air or otherwise, as may be found most expedient, and with a view to the erection of a Mission Station.

5. In reference to destitute localities in towns and territorial operations therein, the Presbytery should commit each such district to the special charge of one of the Ministers, who, besides rendering to it such personal services as he may be able, shall endeavour to organise a staff of regular visitors.

#### CONTINUANCE OF MISSIONARIES IN STATIONS.

1. When a Missionary is appointed to a Station, he shall not continue there longer than six months, unless the Office-bearers or Members of the Station shall formally apply to the Presbytery of the bounds to have his services continued, except in the case of Stations which receive the benefit of the Ferguson Bequest.

2. As a general rule, it is desirable that a Missionary shall not continue at the same Station longer than one year.

3. When it is proposed to prolong the services of a Missionary beyond a year, special application shall be made to the Committee by the Presbytery, after ascertaining the wishes of the Congregation, setting forth the reasons which appear to them to make it desirable that the services of the Missionary should be prolonged; and such application may be repeated after another year.

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4. The services of a Missionary shall on no account be continued beyond three years in the same Station, except in the case of a Territorial Mission, where it may appear to be important for the interests of the Mission that the services of the Missionary should be further prolonged. In such cases a special representation must be made to the Committee through the Presbytery of the bounds.

5. A Missionary may, after three years' service, be re-appointed to the same Station, provided he has altogether quitted and been absent from it for a full year, and his renewed engagement shall be made under the same regulations as before.

6. Presbyteries shall transmit a Report to the Committee, along with the annual Schedule of Queries issued to Stations, of the progress which the Station has made, its present position and future prospects, with any suggestions which the Presbytery may have to make for the guidance or information of the Committee.

7. The payment of the Home Mission Committee's Grant shall be made dependent on the strict observance of these Regulations

*Church Extension Charges.*

20th May 1873.

The Assembly authorise the Home Mission Committee to make grants to Ministers of Church Extension Charges of £40 for the first three years after settlement, to be reduced in the fourth year to £35, in the fifth year to £30, and diminishing thereafter by £5 annually till extinguished.

*Territorial Missions and Charges.*

25th May 1858.

In regard to Territorial operations in large towns carried on by grants from this Committee—

I. In every instance in which the assistance of the Home Mission Committee is given, the object contemplated shall be the founding of an additional territorial congregation in the district chosen as the field of evangelistic work.

II. The certificate of the Presbytery of the bounds shall be required as to the spiritual wants and the suitableness for evangelistic work of any district before any assistance be given by the Committee towards the gathering and organising of a congregation therein; and that the limits of such district shall be defined and determined by the Presbytery of the bounds.

III. In every case, where it is possible to obtain such, the countenance and co-operation of one or more of the existing congregations in the town in which the district is situated shall be secured in its behalf, in order to its being supplied with a sufficient number of visitors and Sabbath-school teachers, and in order to the advancement generally of its religious interests; and in any instance where it is found impossible to obtain such co-operation, and where territorial operations seem urgently called for, a Committee shall be formed of persons taking an interest in the district, who shall communicate directly with this Committee, and shall use all the means in their power to obtain a proper staff of visitors and Sabbath-school teachers.

IV. There shall be a Committee of Management in connection with each district. Such Committee shall consist of the Minister or Ministers of the

congregation or congregations where such have adopted the Mission; and failing that, of such parties taking an interest in the Station as may be approved of by the Presbytery of the bounds.

V. The Committee shall allow a grant at the rate of £60 per annum, payable quarterly, on condition that a similar sum is raised by the parties interested in the Mission; and further, the Committee will allow £1 additional for every £1 (not exceeding £20) above the sum of £60 raised by the parties interested in the Mission; but in no case shall such grants from the Home Mission Committee to any one unsanctioned territorial charge exceed in whole the sum of £80; and further, that no grant shall be continued longer than two years, if within that period a site for a church is not obtained and steps taken for having the same erected, unless the Committee in the management of the district shall be able to satisfy the Home Mission Committee that they have used all diligence to obtain a site, but have been prevented by causes satisfactory to the Committee, in which case the Committee may renew the grant for two years further, on their being satisfied with the progress of the Station otherwise.

VI. The Committee in the district shall be bound to pay the Missionary employed in such work a salary not less than £80.

VII. Parties applying for a grant shall assure the Committee of their willingness to take steps for the raising of the necessary funds for building so soon as such may be required.

VIII. When a place of worship shall have been sanctioned by the General Assembly, the Committee will contribute towards the support of the Minister according to the following scale:—

For the first Three years after his ordination,	.	.	.	.	£100 a year.
„ Fourth year	„	.	.	.	90 „
„ Fifth „	„	.	.	.	80 „
„ Sixth „	„	.	.	.	70 „
„ Seventh „	„	.	.	.	60 „
„ Eighth „	„	.	.	.	50 „
„ Ninth „	„	.	.	.	40 „
„ Tenth „	„	.	.	.	20 „

The grant shall cease entirely at the close of the tenth year from the date of the ordination of the Minister first settled in such territorial charge.

IX. The Committee shall require from each of the territorial missions receiving grants from the Committee a half-yearly report of the operations within the district, together with a statement of accounts; a duplicate of such report to be transmitted to the Presbytery of the bounds.

X. In order to avoid the evils which might result from a premature or hasty settlement of a permanent minister, the Committee will require, as the condition of the payment of the grant undertaken by them, that the Probationer or Minister proposed to be first chosen as the minister of the congregation is, in the judgment of the Committee, possessed of those peculiar gifts and of that missionary spirit which promises to make a successful minister of a territorial charge.

Whenever the local income of a territorial charge, from all sources, Act III. 1866 exclusive of contributions for building purposes, shall amount to, or exceed, the sum of £400 a year, the grant from the Home Mission Committee shall cease, without the necessity of communicating with the congregation on the subject.

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(By Act III. 1866, Rules 1 and 6 under the head of *Continuance of Missionaries in Stations*, "shall apply equally to Territorial Missions drawing grants from the Committee.")

*Territorial Charges—Special Grants.*

29th May 1873.

1. The object of the additional grant shall be to enable congregations to be formed in destitute localities in which there has not been a Territorial Mission Station having grants from the Home Mission Committee for more than three years, except in cases in which a new church is built, or a new agency employed, satisfactory to the Home Mission Committee.

2. The additional grant shall only be given in the case of a minister being called who is already ordained, and is translated from a charge.

3. The additional grant shall only be given to Territorial Charges erected in large cities—Glasgow, Edinburgh, Dundee, and Aberdeen.

4. The grants shall be—

For the first Three years after induction or ordination, £200 a year.

"	Fourth year	"	"	150	"
"	Fifth year	"	"	120	"
"	Sixth year	"	"	100	"
"	Seventh year	"	"	80	"
"	Eighth year	"	"	60	"
"	Ninth year	"	"	40	"
"	Tenth year	"	"	20	"

After which the grant shall cease.

5. If, during any year of the period assigned for the operation of the grant, the ordinary congregational funds, including the Sustentation Fund, amount to or exceed £500, after making allowance, when necessary, for rent of hall, where a church has not yet been erected, or interest of debt on church when erected, the grant shall cease; and as these funds approximate to that amount, the sum contributed by the Home Mission Committee shall not be more than is sufficient to make up the difference between the actual funds and £500.

29th May 1873.

Before new congregations requiring grants are sanctioned, the Home Mission Committee shall report in the first instance, not only on the fitness of these congregations to receive sanction, but as to their own financial ability to give the necessary grants from their funds.

*Miners' Mission.*

29th May 1873.

With reference to the Mission to the Mining Districts, the Assembly being deeply impressed with the destitution of the means of grace in these districts, as brought out in the answers to Schedules issued by this Committee, and recognising the urgency of the call addressed to this Church to do her part in supplying that destitution, cordially approve of the proposed scheme, that a sum of £20,000 be raised in Glasgow and the West, to be expended partly in providing the necessary buildings, and partly in supporting a living agency in the mining districts of the western counties; and that a sum of £10,000 be raised in Edinburgh and the East, to be applied to the same purposes in the eastern counties. The Assembly, rejoicing to hear that influential Committees have been already formed, and a good beginning made in the way of raising funds in both cities, cordially com-

mend the whole subject to the prayers and liberalities of the members of the Church, and remit to the Home Mission Committee to prosecute the scheme to a successful issue.

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### *Grants for Congregational Missions.*

The Committee adopt the following as the Regulations under which these Grants shall be administered :—

Congregational  
Missions.  
27th May 1863.

1. That not more than £20 shall be given annually to one Missionary, as a grant in aid of such Mission Work.
2. That it shall be carried on under the superintendence of a Kirk-Session.
3. That a distinct Territory, to be approved of and sanctioned by the Presbytery of the bounds, shall be assigned to the Missionary.
4. That a place of Meeting within the territory shall be secured, in which Religious Services shall be conducted at least once on every Lord's Day.
5. That the Missionary shall visit the families, and especially the spiritually destitute families, in his district, from week to week, conducting Prayer-meetings and Bible-classes, and superintending Sabbath-schools.
6. That the Presbytery shall certify to the Home Mission Committee that the Missionary employed is suitable for the work which he is engaged to perform.

The Assembly authorise the Home Mission Committee to expend £1500 annually in the department of Congregational Missions, including those where students are employed (*see below*).

### EMPLOYMENT OF STUDENTS IN HOME MISSION WORK.

The General Assembly, on the Report of the Home Mission Committee agent the Employment of Students in Home Mission work, approve of and adopt the following Plan and Regulations to be observed in future, in lieu of those adopted by the General Assembly 1858 :—

Employment of  
Students.  
Act V. 1874.

While it is very desirable and important that students for the Ministry should have some experience and training in Missionary work, it is essential to their being properly qualified Ministers that they should pursue diligently and steadily their preparatory studies, especially that of Theology in its various branches.

In order to give them such opportunities of engaging in Missionary work in connection with the Church as may preclude the necessity of their accepting engagements that would hinder them from devoting the requisite amount of their time and attention to the studies that are their more immediate duty, the Home Mission Committee is authorised to grant aid to Congregations for the employment of Students, subject to the following Regulations and Conditions :—

1. Students of any year at the University (with a view to the Ministry of this Church) or Divinity Hall may be employed, provided they are found to possess the necessary qualifications for the work, and provided the Presbytery approve of the mission and of the student to be employed.

2. The remuneration for their work shall be at the rate of £60 per annum,—one-third of which to be given by the Home Mission Committee, and the remainder by the Congregation employing the student. Application must be made beforehand to the Committee, and the grant to run from the date of admission, and to be paid quarterly.

3. A limited territory, within the district occupied by the Congregation, shall be assigned to the missionary, who shall be required to devote not

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more nor less than ten hours per week in the winter months, and fifteen hours per week in the summer months, to household visitation, Scripture reading and exposition, with prayer, and tract distribution in the district; and shall have a service of worship within the district every Sabbath evening, and an additional service every week in the summer months.

4. Students so employed shall on no account conduct any of the ordinary ministerial services in the congregation, or do pastoral work for the ministers.

5. The Missionary shall, once a quarter, make up and lay before the Kirk-Session or Deacons' Court of the Congregation with which he is connected a Report of the work performed by him during the quarter,—the visits he has paid, the services he has held, and such information as he has to give regarding his work in the district.

6. The Minister and Kirk-Session of the Congregation shall exercise a superintendence over the Missionary, and aid, assist, and encourage him in his work; and, if possible, procure for him the services of some Office-bearers or Members of the Congregation to assist him in his work in the district.

7. The Kirk-Session and Deacons' Court shall invite the Missionary to attend their meetings, in order that he may become acquainted with the mode of conducting the business of the Church.

8. A Report shall be transmitted half-yearly by the Deacons' Court to the Home Mission Committee of the labours of the Missionary in the district, accompanied by a certificate that he has discharged to the satisfaction of the Deacons' Court his work in the district, and that the proportion of his salary due by Congregation has been paid.

24th May 1876.

In reference to Congregational Missions, and especially those superintended by students, the Assembly express their earnest hope that in all cases they shall be aided by a vigorous and earnest band of visitors from the congregations, so as to be, in reality as well as in name, Congregational Missions.

*Secretaryship.*

## ACT XII. 1874.—ANENT THE APPOINTMENT OF A HOME MISSION SECRETARY.

*Home Mission  
Secretary.*

The General Assembly find and declare as follows :—

I. In regard to the duties and functions of the Secretary—

(1.) *As to Church Extension.*—The Secretary shall inquire as to necessitous districts in large towns, and in mining and manufacturing districts, and stimulate and direct local efforts for originating new charges in such districts. It shall be his duty also to examine and report his opinion upon cases of application for the sanctioning of new charges, seeking in both departments the co-operation of Presbyteries.

(2.) *As to Mission Stations and Sanctioned Charges receiving Grants from the Home Mission Committee.*—It shall be the duty of the Secretary to visit, if possible annually, Mission Stations, and in regard to Sanctioned Charges receiving Home Mission Grants, it shall be his duty to inquire into the use made of these grants, and to see that they are not given longer than may be necessary. In this department also the Secretary shall act in concert with Presbyteries.

(3.) It shall be the duty of the Secretary to suggest and further movements such as that of the Miners' Mission.

(4.) For the efficient discharge of his duties, the Secretary shall retain his status in connection with the congregation of which he is the minister as a member of Presbytery, while he will be relieved from all pastoral work.

II. *As to Salary.*—The Secretary shall receive a salary not exceeding £500 from the public funds of the Church, and his travelling expenses.



## 3. Church Extension Building Fund.

ACT VII. 1879.—ACT ANENT CHURCH EXTENSION BUILDING FUND.

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IX. 3.*Church Extension  
Building Fund.*

The Assembly adopt the following Regulations as to the administration of the Church Extension Building Fund :—

1. The Fund shall be administered by a Committee of thirty members, eighteen of them laymen, who shall be selected so as to represent the different districts of the country, and the different classes of subscribers. The Committee shall be presided over by Joint-conveners, a minister and a layman ; and seven shall form a quorum. Two Sub-committees shall be formed, one to meet in Edinburgh and the other in Glasgow. The Committee shall have power to appoint a Secretary with such reasonable allowance as may be necessary. (25th May 1880.)

2. The Regulations as to Grants, etc., are those already approved of by the Commission in August 1877, as follows :—

1. *The Fund Generally.*

(1.) The sum proposed to be raised is £100,000. Contributors shall have the option of paying their subscriptions at once, or in instalments which may extend over five years.

(2.) The Fund shall be administered by a Committee appointed by the General Assembly, in which the subscribers to the Fund shall be largely represented.

(3.) So far as is consistent with the provisions and objects of the scheme generally, special regard shall be had to the views and wishes of contributors as to particular districts of the country or particular congregations in which they are interested.

2. *The Fund as applicable to Church Extension Building Purposes.*

(1.) The Fund shall be employed to assist in the erection of churches for charges and stations sanctioned at and after the Assembly 1877.

(It is proposed to extend the provisions of the scheme so as to include the case of those previously-sanctioned congregations which have not yet been able to get churches erected.)

(2.) The maximum grant shall be £1500 ; no grant shall exceed one-fourth of the entire cost ; and whatever its amount, the grant shall be payable in the proportion of one-third at laying the foundation-stone, one-third at the roofing in, and one-third at the completion of the building.

(3.) No grant shall be made except for churches where charges have been sanctioned by the Assembly, or stations have been set up by Presbyteries, with a view to their becoming, at an early period, regular ministerial charges.

(4.) No grant shall be made but where the Committee are satisfied that a reasonable sum has been raised or subscribed by the other parties, and that the church will be completed either altogether free from debt, or with such an amount of debt as will not unduly burden the congregation.

(5.) No grants shall be made unless the plans and estimates have been submitted to the Committee, and it shall be satisfied that there is no extravagant nor unnecessary expense incurred on the one hand, and that the structure is respectable and sufficient on the other. By "estimates" are meant an approved tender, with a copy of specifications ; and every care shall be taken to have all necessary items included, so that a full view may

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*Church Extension  
Building Fund.*

be had of the probable actual cost. Subsequent applications for additional grants, on the ground that the cost has exceeded the estimates, shall not be entertained.

(6.) Loans may be made for the same purpose either in addition to or in place of grants. The amount of them shall be determined according to circumstances, but in no case shall they exceed £1500, and where the maximum grant has been given they shall not rise above £1000. They shall be repayable within a fixed period not exceeding five years. Interest shall be charged at the rate of  $2\frac{1}{2}$  per cent.; but when repayment is not made according to agreement it shall be raised to 6 per cent. The Committee shall obtain either from members of the congregation or others acting on its behalf, satisfactory security that the terms on which the loans are given will be fulfilled.

(7.) All churches built in connection with this scheme shall have their titles completed according to the Model Trust Deed, and where debt exists an obligation shall be taken to have them thus completed.

### *3. The Fund as applicable to Rebuilding and Enlargement of Existing Churches.*

(1.) Grants for the rebuilding or enlargement of existing churches shall not exceed £500, and in no case shall they be more than one-fourth of the entire cost of rebuilding and enlargement. Loans may also be given for this purpose. No loans shall exceed £500.

(2.) In making grants and giving loans, special respect shall be had to the growth of population where the church is situated, and the need which has arisen from that or any other cause for increased accommodation. Cases of this kind shall have a preference.

(3.) The foregoing provisions 4, 5, and 7, and also 6, so far as repayment of loans and interest chargeable on them are concerned, shall be applicable under this head, not less than under the former.

3. All applications for grants or loans shall come through the Presbytery of the bounds. A schedule requiring information shall be issued in each case, and, when filled up, shall be attested by the Deacons' Court or Provisional Committee of the congregation applying for aid, and by the Presbytery. Applications shall be submitted first to one or other of the Sub-committees, according to the part of the country from which they come. But the Committee may, before voting any grant, make any further investigation or inquiry which they may consider necessary, by deputation or otherwise.

4. The Committee shall not distribute in one year a larger sum in grants to new charges than £7000; nor in grants for rebuilding or enlargement of churches a larger sum than £1500, nor shall they lend to congregations in one year more than £2000. But in consideration of the delay that has occurred in constituting the Fund, the first year shall in respect of grants count as two years, a double expenditure being allowed.

### ADDITIONAL REGULATIONS ADOPTED BY THE COMMITTEE (REPORT 1880).

1. No grants shall be paid until a certificate has been produced from the Custodian of Titles, bearing that the requirements of Regulation 7 under Head II. of the Scheme has been fulfilled.

2. When conditions are attached to grants, these must be made good within three years, and, failing to do so, the grants shall be held to have lapsed, and shall again become a part of the General Fund.

#### 4. Highland Committee.

REGULATIONS APPROVED BY ASSEMBLY 1883.

##### 1. *Grants to Students.*

1. A sum of £5 a year shall be paid henceforward to Student Teachers in connection with the Ladies' Association Schools, in recognition of the missionary work done by them, whether the Students come to College during the year or not.

2. The remuneration of Student Missionaries shall be at the rate of one pound per week during service; this in their case supersedes all grants in aid from the funds of the Committee; and the Committee will defray travelling expenses of such Students incurred in proceeding to their Stations.

3. The system of grants in aid hitherto in force shall terminate with the Session 1882-83. But a sum of not more than £60 may be voted for grants to Gaelic-speaking Students, not being Ladies' Teachers or Student Missionaries, in sums not exceeding £10 in any one case, as the Sub-Committee to be appointed on Students may on examination think fit. In future no grants in aid shall be made to Students holding any Bursary of £10 a year or upwards.

4. A meeting with the Student Missionaries and Ladies' Association Teachers shall be held annually before the end of March—if otherwise convenient, on the evening on which the Committee meets in that month—the Convener in the chair, with a view of giving them counsel and encouragement preparatory to entering on their summer work.

##### II. *Grants to Catechists.*

1. Applications for grants for Catechists will be entertained in the case of charges where the population amounts to 1500, or where double charges exist.

2. In such cases, when approved, the Committee will undertake to pay half the salary, on the understanding that the Catechist devotes his whole time to visitation and catechetical work.

3. All other cases will be regarded as exceptional, and be decided on their merits, due regard being had to the interests of the Church and the state of the Funds.

(See under VI.)

##### III. *Special Summer Missions.*

The Committee are prepared to consider applications made for assistance from localities frequented by summer visitors, and to vote to approved districts a sum of £10, on condition that the local congregation raise an equal sum, or at least as much as is needed to secure the services of a preacher or minister for a period of two months at the tourist season, during which time there must be at least two English services each Lord's Day. From congregations thus aided the Committee will expect to have a Report laid on their table at the October meeting of each year, as to the assistance secured, the services held, and the interest manifested in them.

##### IV. *Congregational Missions.*

1. Congregations desirous of securing the services of a Student Missionary (at the rate of £52 per annum) for the vacation six months, with a view to more fully overtaking outlying districts or a town community, will, on their application recommending itself to the Committee, receive a grant of £10.

2. Congregations within reach of University centres, requiring the services of a Student Missionary for the whole year, will be allowed a grant of £20.

3. Congregations carrying on mission work by Probationers, at a salary of not less than £70 a year, will be allowed a sum of £30.

(See under VI.)

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Committee.*V. *Fishing Stations.*

1. At Fishing Stations, such as Aberdeen, Helmsdale, and Lybster, where there are resident Gaelic ministers, a Preacher or Student Missionary may be appointed—in lieu of deputies—for a period of ten weeks during the fishing season; so that the fishermen may be provided with two Gaelic services each Sabbath, one of which the local minister will be expected to conduct, and that special collections be made as at other stations for defraying expenses, and sent to this Committee.

2. In connection with Stations in Shetland, Orkney, and Ireland, where it is desirable to have a Gaelic-speaking deputy, although the Highlanders may be in minority, arrangements will be made, so far as possible, with the Home Mission Committee, to save expense by joint action.

VI. *Grants, Appointments, and Reports.*

1. Applications for grants for Missionaries and Catechists must be accompanied by scheduled information, attested by the Clerk of the Presbytery of the bounds. Schedules can be had on application to Rev. James Fletcher, Clerk of Committee, Free Church Offices, Edinburgh.

2. Applications for grants for Summer Missions, and for Congregational Missions, must be received yearly on or before 1st March.

3. Grants for Catechists will be made usually for a period of three years. They may be discontinued earlier if the local contribution promised is not remitted to the Committee. On a grant being renewed for a further period of three years, the Committee will hold themselves at liberty, if they think fit, to change the Catechist from one sphere of labour to another.

4. Appointments to the regular Mission and Fishing Stations, and all other summer arrangements, will be made, as far as possible, at the March meeting of Committee.

5. Reports from the regular Stations, if these have not been visited by deputies from the Committee, are expected annually from their respective Moderators. Other Stations, when not specially visited, are expected to be reported on by Clerk of the Presbytery of the bounds. Student Teachers are expected to report to the Committee on the work done by them.

6. Reports from all Agents, Stations, and Deputies of the Committee are taken up for consideration at the October meeting each year. At this meeting also, so far as possible, winter appointments are made.

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Regulations.*5. *Foreign Missions Committee.**General Rules for the Guidance of Missionaries from Scotland.*

(Sanctioned by the Foreign Missions Committee, 22d December 1885, and reported to the General Assembly of 1886 for confirmation.)

I. THE FREE CHURCH OF SCOTLAND, through its Foreign Missions Committee of from seventy to eighty ordained Ministers and Elders, selects, appoints, and sends forth to India, Africa, and the New Hebrides Islands of the West Pacific Ocean, its present fields (to the Lebanon in Syria also, and to any fields that may hereafter be taken up), the following classes of Missionaries:—

1. *Ordained Ministers*, who have passed through the regular course of study in Arts and Theology.
2. *Medical Graduates or Licentiates*, who may either receive ordination after a two or three years' study of Theology, or, having been ordained Elders of the Church, may be set apart by a Presbytery as Evangelists under the Deliverance of the General Assembly of 1882

3. *Arts Graduates* of any University, members, and, if possible, office-bearers of the Church, who may be appointed Missionary Professors or Teachers in the Christian Colleges, or Institutions and Schools of the Church, in India and Africa.
4. *Certificated Teachers*, members, and, as a general rule, office-bearers of the Church.

To the Industrial and School Departments of the various Missions local appointments are made by the Mission Councils or Committees responsible.

To the Livingstonia Mission in East Central Africa a few appointments of Scottish artisans and evangelists, and of African evangelists, are made by the Livingstonia Sub-Committee. All such must be members of the Church. The agents of the African Lakes Company, which works in harmony with that Mission, are available for Mission work, it is understood, if suitable and required.

Missionaries are appointed to India, or to South Africa, or to the Nyasa region of Africa, or to the New Hebrides, and to a particular station only in the first instance. In every case the Committee reserve the right to transfer a Missionary from one station to another in the same field.

II. *Medical Certificate*.—All appointments are subject to a medical certificate for both Missionaries and their wives, or those who go out to be married to them.

III. *Term of Office*.—Except in the case of the Livingstonia Mission, where no appointment is made for a longer period than five years, ordained ministers who have passed through the regular course are appointed for life, all however subject to the discipline of the Church Courts. But all such appointments may be terminated, on the one hand, by resignation duly tendered to the Committee, six months' notice being given, and by them accepted; or, on the other, by resolution of the Committee for special reasons, subject to confirmation by the General Assembly on the report of such reasons. In the latter case, a year's notice to date from the resolution of the Committee, or a year's salary, will be given, along with return passage if the Missionary so recalled should be abroad.

Medical Missionaries, Professors, Teachers, and all others, are appointed on a written engagement for five years from the date of landing at the principal port of the country or province to which they are sent, subject to the discipline of the Church Courts, and subject to a break at the end of three years, on either part, on six months' notice, the side giving notice to be responsible for return passage. On the completion of the five years' term, the Committee provide return passage if the Missionary sails within three months after the expiry of that period. It is hoped, however, and has generally been the case, that the five years' engagement will be renewed indefinitely, subject only to this six months' notice at any time, but five years' service will always give a claim to return passage within three months of the date of leaving the mission.

IV. *Marriage, Outfit, and Passage*.—It is not desirable that young Missionaries of any class should marry until after the close of the first year of their experience of the climate and work, and passing a first examination in the vernacular of the people. Missionaries of the four classes receive the sum of £40 for outfit. In every case the passage is paid, including *bona fide* travelling expenses at either end. Salary dates from the day of sailing.

V. *Widows' and Orphans' Fund*.—On appointment, ordained Missionaries are required, and others are permitted, to join the Missionaries' Widows' and Orphans' Fund, on terms similar to those of the Ministers' Fund, so as to secure a widow's annuity of at least £42 per annum, and a sum of from £15 to £22, 10s. per annum to each child under eighteen years of age. The following are the terms:—



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"There shall be deducted from the salary of all Missionaries and others, above named, who may hereafter enter the service of the Foreign Missions Committee: (*first*), an entrance fee of £10, in two equal instalments, in the first and second years after appointment; (*second*), a marriage tax of £5 if under forty-five years of age at marriage, or on appointment, if married, payable three months thereafter; or of £10 if forty-five years of age or upwards at said date, payable in two equal instalments of £5, three months and fifteen months thereafter; the same sums being payable by a widower under or above forty-five years of age, as the case may be, for any subsequent marriage; (*third*), the yearly sum of £7, also by deduction from salary, in two equal instalments on 1st July and 1st January.

"Should any Missionary cease, from whatever cause, to be in the service of the Foreign Missions Committee, he may retain his interest in the Fund by continuing the yearly payment of £7, and conforming to the regulations."

VI. *Vernacular Languages*.—All Missionaries are required to gain a knowledge of the vernacular language. Those not engaged in College work must study and pass examinations in at least the principal language of the peoples to whom they have been sent, under rules made by the local Mission Councils and approved by the Foreign Missions Committee. The sum of £50 will be granted as native tutor allowance to all Missionaries on their finally passing.

VII. *Leave and Furlough*.—Local leave of absence within the country for a short time may be granted by the Mission Council, College Council, Education Board, or Presbytery (in Kafiraria). Sick leave, on medical certificate, will be granted at any time, and the Mission Council, Financial Board, or Local Treasurer may advance the necessary travelling expenses.

Furlough is given by the Foreign Missions Committee as follows—provided always that the state of the work of the Mission, and the arrangements for carrying it on during temporary absence, are such as warrant the Mission Council, College Council, Education Board, or Presbytery (in Kafiraria) to recommend the furlough:—

(a) *India*.—To every ordained Missionary who has served seven full years from landing in the country, and has not been absent on sick leave, furlough for not more than eighteen months, including time spent on passage. The Mission Council or other local authority shall, as far as practicable, so arrange that the Missionary shall be absent from India for two hot seasons, and, if on the staff of a College or Institution, that his departure and return shall fit into the educational terms.

(b) *Tropical Africa*.—Five years from the date of landing at, to that of departing from the east coast of Tropical Africa, is the period fixed for furlough meanwhile, being the maximum term of engagement in every case.

(c) *South Africa and the New Hebrides*.—Scottish ordained Missionaries, after ten years' service, may apply to the Lovedale Education Board, or the Presbytery, or to the New Hebrides Synod, for furlough for a year, being absent from their stations for not longer than fifteen months.

In all stations of the Mission, and especially in all Rural Missions, the aim of the Mission must be to train Native Agents, so that during the temporary absence of a Missionary the work may be efficiently carried on by them under the supervision of the local Council or Presbytery.

These Rules apply to five years' agents who have renewed their service indefinitely.

VIII. *Case of Missionary invalided during Periods*.—If a Missionary, during the currency of any of the periods qualifying for furlough, has been at home invalided, the Committee reserve the power to judge how far these rules may affect his furlough.

IX. *Salary during Furlough*.—The Missionary will draw salary at the home



rate during furlough, or, for the married, £280, and, for the unmarried and widowers without children, £200 per annum, to run from the date of leaving their station.

X. *Payment of Passage of Missionary's Wife.*—The Committee pay the passage home and out of the wife and children of the Missionary taking furlough, subject to the above rules.

A Missionary's wife is entitled to the same number of passages at the cost of the Committee as her husband, and no more. In the case of a Missionary's wife not being entitled to furlough under this rule, and coming home, the Financial Boards in India are empowered to advance the amount of her passage-money, which shall be repaid by her husband as may be arranged in each case.

XI. *Employment of Missionary during Furlough.*—Missionaries at home on furlough, or invalided, are expected, so far as the state of their health and other circumstances admit, to co-operate in promoting the interests of the Missions throughout the Church.

XII. *Correspondence with the Committee.*—Every Missionary, and missionary agent appointed by the Committee, is required to send a letter through the Secretary, at least once a year, to be communicated to the Church through the usual channels, to stimulate the knowledge, prayer, and self-sacrifice of the members of the Church. Ordained and Medical Missionaries in charge of central stations are expected to send home a quarterly letter. Local Secretaries and Treasurers will correspond with the Committee as frequently as the business of the Mission requires. An annual schedule shall be filled up and report be written for the General Assembly, so as to reach the Secretary not later than 1st March, in the case of all stations except the New Hebrides and Livingstonia, for which 15th March is the latest date.

XIII. *Presbyteries and Local Councils.*—Ordained Missionaries are members, as at home, of the Church's Presbyteries, where they exist, and of the Synod of the New Hebrides. The Missions in India are locally administered by Financial Boards, Mission Councils, and College Councils; in Africa by an Education Board for Lovedale, and by the Free Presbytery of Kafraria (with a Treasurer at King William's Town) for the more purely preaching work. Every Ordained and every Medical Missionary, and all teachers who are graduates, shall be members of one or other of these bodies, under rules approved by the Foreign Missions Committee. Lovedale, Blythswood, the New Hebrides, and Lebanon stations so far as not under the Lebanon Schools Society, are meanwhile directly controlled by the Committee.

XIV. *Property.*—Abroad, as at home, Acts of the General Assembly passed in and since 1844 vest all heritable property and moneys for Church and Mission purposes in the General Trustees, who grant powers of attorney to local agents in India, Africa, the New Hebrides and Syria. The Financial Boards, and specially the Secretaries in the Financial Boards in India and in the Lovedale Education Board, and the Missionaries of the Free Presbytery of Kafraria, are charged with the management of the property in the best interests of the Church, under the Foreign Missions Committee. Repairs and Insurance should be locally provided for. Occupants of mission-houses pay tenants' taxes.

XV. *Relation of Missionaries to the Native Church and Agents.*—All native agents, whether ordained Missionaries and Pastors, or employed in the other departments of evangelistic and educational work, are held to be in the service of the Native Church and local missions, as sanctioned by the General Assembly of 1861. The Committee attach the highest importance to the formation and development in every station of self-propagating and, as soon as possible, self-supporting congregations, however small at first,

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under their own pastors, not only in towns and the great centres, but in villages. In India the Whyte Bursaries of £15 a year for three years, and in Africa similar bursaries, offered by the Foreign Missions and Livingstonia Mission Committees, aid native Divinity students. In the New Hebrides there is a Native Teachers' Fund. Towards the payment of Native Pastors the Committee grant small supplements, periodically diminishing, so as to help such congregations as help themselves, and that for a limited period, from the Duff Sustentation Fund, Scott Fund, and Hugh Miller Bequest (for Bombay only) at their disposal. All grants for native agents are made in the currency of their own country.

XVI. A Formula for native elders, licentiates, and ministers has been sanctioned by the General Assembly of 1882.

These General Rules supersede former published regulations on the same subjects.

## APPENDIX X.

## DISCIPLINE.

*The Form of Process.*

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X.

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SESS. 11. APRIL 18, 1707.—ACT APPROVING A FORM OF PROCESS IN THE JUDICATORIES OF THE CHURCH WITH RELATION TO SCANDALS AND CENSURES.

The General Assembly having this day, and at several former diets, had read in their audience the overtures concerning a Form of Process in the judicatories of this Church with relation to Scandals and Censures, which were transmitted by the late General Assembly to the several Presbyteries for their judgment thereupon, and having maturely considered the said whole overtures, with the remarks and observations of Presbyteries made upon the same after full reasoning, both in Committees and open Assembly, upon the several particulars contained in the said Form of Process, the General Assembly did, by their votes, *nemine contradicente*, and hereby do, ratify and approve the foresaid Form of Process as now amended, in the whole heads and articles thereof, and appoint and ordain the same to be observed and practised by the respective judicatories of this Church as an act and ordinance of Assembly, and as fixed binding rules and directions in the whole matters therein contained, except the seventh, eighth, and ninth paragraphs of the fourth chapter, and what concerns the pressing of the Oath of Purgation—as to which the General Assembly supersedes at this time to enjoin the observation thereof as positive standing rules; but they did, and hereby do, unanimously recommend to the several Presbyteries and other judicatories of the Church, that they regulate themselves according to the advice therein insinuated, as they shall find to tend most to edification; the tenor of which Form of Process follows.

## CHAPTER I.

*Concerning Church Government, Discipline, Scandals, and Censures in general.*

1. Our Lord Jesus Christ hath instituted a government, and governors ecclesiastical, in his house, with power to meet for the order and government thereof; and to that purpose, the apostles did immediately receive the keys from the hands of their Lord and Master Jesus Christ, and did use and exercise the same upon all occasions; and Christ hath from time to time furnished some in his Church with gifts for government, and with commission to exercise it when called thereunto, and has promised his presence to be with them to the end of the world.

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2. It is agreeable to and founded on the word of God, that some others, besides those who labour in the word and doctrine, be Church governors to join with the ministers of the word in the government of the Church, and exercise of discipline, and oversight of the manners of the people; which officers are called ruling elders. As also that the Church be governed by several sorts of judicatures, and one in subordination to the other, such as kirk-sessions, presbyteries, provincial synods, and general assemblies.

3. Church discipline and censures, for judging and removing of offences, are of great use and necessity in the Church, that the name of God, by reason of ungodly and wicked persons living in the Church, be not blasphemed, nor his wrath provoked against his people: that the godly be not leavened with but preserved from the contagion, and stricken with fear; and that sinners who are to be censured may be ashamed, to the destruction of the flesh and saving of the spirit in the day of the Lord Jesus.

4. Nothing ought to be admitted by any Church judicature as the ground of a process for censure, but what hath been declared censurable by the word of God, or some act of universal custom of this National Church agreeable thereto; and the several judicatures of this Church ought to take timeous notice of all scandals: but it is judged, that if a scandal shall happen not to be noticed in order to censure for the space of five years, it should not be again revived, so as to enter in a process thereanent, unless it be of a heinous nature, or become again flagrant; but the consciences of such persons ought to be seriously dealt with in private, to bring them to a sense of their sin and duty.

5. These assemblies or Church judicatures before mentioned have power to convene and call before them any persons within their own bounds, whom the ecclesiastical business which is before them doth concern, either as party, witness, or otherwise, and to examine them according to the nature of the affair, and to hear and determine in such cases as shall orderly come before them, and accordingly dispense Church censures.

6. If a person be charged with a scandal, who lives within the bounds of another parish, the kirk-session of the parish where that person resides should be desired to cause cite that person to answer before the session in whose bounds the scandal happened, and the same course is to be followed in such cases by the other judicatures of the Church, seeing, for order's sake, they should not presume to exercise their authority without their own bounds.

7. The minister of the word, holding an office above that of the ruling elder, cannot be liable to the censure of the kirk-session, but to the superior judicatures of the Church.

## CHAPTER II.

*Concerning the Entering of Processes, Citation of Parties and Witnesses, and taking Depositions, and anent Fugitives from Discipline.*

1. Members of kirk-sessions are wisely to consider the information they get of scandals, and consult with their minister thereanent, even before the same be communicate to others, that thereby the spreading of the scandal may be prevented; and it may be removed by private admonition, according to our Lord and Saviour's rule, Matthew xviii. 15, which, if amendment follow, is the far better way of gaining and recovering a lapsed brother, whereas the needless spreading of a scandal does sometimes harden the guilty, grieve the godly, and is dishonourable to religion.

2. When any business is moved in a Church judicature, whether by information, petition, or otherwise, they are in the first place to consider whether the matter, in its circumstantial case, be proper for them to enter upon, and whether it be orderly brought in, and proper for them to cognosce and dis-

ness it themselves, or prepare it for superior judicatures, and should endeavour to shorten their work as much as, with the edification of the Church, they can, especially as to the head of scandal; but still, on all occasions the office-bearers in the house of God are to show all prudent zeal against sin.

3. In proceeding in all causes, where there is any person or parties concerned, the judicature is to see that, before they proceed, these persons or parties be duly sisted before them by a legal and timeous citation in writ, bearing its cause, either at the instance of a party complaining, or at least by order of the judicature; and if they be residing within the parish, the same may be upon forty-eight hours' advertisement, and the execution of the summons bearing its cause, and made before two or three witnesses insert, is to be returned by the beadle or officer in writing, and the persons cited called at the door; and this is especially to be observed by presbyteries and other superior judicatures of the Church.

4. Sometimes it may be fit that the party be privately spoken to before any citation be given or process begun, for their better gaining; in which case the minister is to exercise his own discretion, and take the concurrence of elders and others with him. But if the party cited as above appear not, there ought to be a second, and then a third, citation given by the order of the sessions and presbyteries, either personally, or left at their dwelling-house, before the judicature declare the person contumacious, unless the party be cited to appear before a superior judicature by reference or appeal, in which case there is not that need of so many citations before the superior judicature, the party having actually appeared before the inferior judicature; and being cited *apud acta* to appear before the superior, and the same marked in the minutes, or having been declared contumacious before the cause was brought before the superior judicature.

5. All citations *apud acta* are peremptory, and if instructed, infer contumacy, if not obeyed.

6. If the person do not appear on the third citation, or upon a citation *apud acta*, and no relevant excuse be adduced and verified, though in that case he be censurable for contumacy, yet it may be fit that the judicature proceed to take cognition, either by examining witnesses upon oath, or by other documents, of the verity of the scandals delated against him, before they censure him for contumacy.

7. If the party appear, then the moderator is to inform the person of the occasion of his being called, and to give him, if desired, a short note in writing thereof, with the names of the witnesses that are to be made use of.

8. There seems to be no need of accusers or informers in ecclesiastical processes, where the same are not raised at the instance of a party complaining formally; but the party, if cited by order of the judicature, is to answer the judicature in what is laid to his charge; yet so, that if the party cited be found innocent and acquitted, those who informed the judicatory, whether the party require it or not, ought to be noticed, for either their calumny or imprudence, as the judicatory shall find cause.

9. If there be witnesses to be made use of in the process, a list of their names ought to be given to the defenders some time before, or at least at their compareance, and the witnesses ought to be timeously cited to give evidence; and if they refuse, after three citations given, and executions returned, they may be proceeded with as contumacious, or, if judged needful, after the first or second citation, application may be made to the civil magistrate, that he may oblige them to appear.

10. Before the witnesses be judicially examined, the accused person is to be called, and the relevancy of the libel discussed; and if the defender compare, he may object against any of them, and if the objection be relevant, and made evident to the judicatory, the witnesses are to be cast; but a person's being

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the delator or informer doth not hinder him to be a witness, except in the case where he formerly complained for his own interest, or of pregnant presumptions of malice against the person accused.

11. Though there be no relevant objection, yet the witnesses are solemnly to be purged of malice, bribe, or good deed done or to be done, and of partial counsel.

12. The witnesses are to be examined in presence of the accused party, if compearing, and he may desire the moderator to propose such questions or cross-questions to the witnesses as may tend to his exculpation, which, if the judicatory think pertinent, are to be proposed; but no accused person is to interrupt the witnesses, or speak during the time of deposition.

13. If the party accused do before probation offer grounds of exculpation to be proven by witnesses, the moderator and clerk, if required, are to give warrant to cite the witnesses upon the party's charges, the relevancy of the offered exculpation being first considered and sustained by the judicatory; and if the exculpation be fully proven as to the substance of the scandal, all further proof of the libel and accusation must there sist, and the defender is to be assoilzied; and if the libel be special as to the time and place of a fact, and the accused more pregnantly allege and clearly prove *alibi*; but if the substance of the scandal be once sustained and deponed upon, there can be no place for exculpation, unless it be as to some extenuating or alleviating circumstances not contrary to, but consistent with, the depositions already taken.

14. If the witnesses cannot subscribe their names to their depositions, the clerk is to mark that they declare they cannot write, and the moderator is to subscribe the same, whether they can subscribe or not.

15. After the depositions are ended, the parties being removed, the members of the judicature, at the same or some after diet thereto appointed, are to advise the cause, and there and then to reason the affair calmly, speaking always to the moderator one after another, without interrupting one another, using no reflecting language to, or of one another, nor too long harangues or digressions.

16. If any person or persons under process for scandal abscond, they shall, after being called before the judicature and not compearing, be cited first from the pulpit of the parish where the process depends and where they reside; and if they do not thereupon appear before the judicature before whom the process depends, they are, by order of the presbytery, to be cited from the pulpits of all the kirks within their bounds to compear before the presbytery; and if they do not then compear, they are to be declared fugitive from the Church discipline, and the same intimate in all the kirks within the bounds of the presbytery, desiring, that if any know of the said fugitives, they may acquaint the minister or elder of the bounds thereof, and the presbytery are to sist there until they get further notice of these persons.

## CHAPTER III.

*Concerning Swearers, Cursers, Profaners of the Lord's day, Drunkards, and other Scandals of that nature.*

1. It may fall out that one single act of drunkenness or breach of the Lord's day, disobedience to parents, or of swearing, cursing, scolding, fighting, lying, cheating, or stealing, may be clothed with such circumstances as may be a just ground of process immediately, and even bring the persons guilty under the censure of the lesser excommunication, and suspension from the benefit of the sealing ordinances, and require their appearance in presence of the con-



gregation to be rebuked, before relaxation ; but the weight of this is duly to be pondered, and Church judicatures, and members thereof, are to consider whether private admonition of the persons alleged and found guilty of the above scandals, if not clothed with such circumstances, or bringing them to the public, will tend most to edification, and proceed accordingly.

2. But ordinarily, in all such offences, the guilty, for the first fault, should be spoken to in private by the minister or an elder, and admonished ; and on promise, from a sense of guilt, to amend, they may sist there.

3. But if the person relapse, he should be called before the session, and if found guilty, may be there judicially rebuked, where the session, on promise, from a due sense of sin, to amend, may again sist there.

4. But if the person amend not after that, the session should orderly proceed, unless repentance appear, and due satisfaction be offered, till they inflict the censure of the lesser excommunication, and suspension from the benefit of the sealing ordinances, under which the censured are to lie till amendment and reformation.

5. With respect to scandals, the grossness whereof makes it necessary to bring the persons guilty oftener than once before the congregation, the rules prescribed by 4th Act of General Assembly *anno* 1705, are to be followed.

6. If the guilty persons continue in this condition, or lie under the censure of the lesser excommunication a considerable time, and yet be found frequently relapsing in these vices they are censured for, it may be constructed such a degree of contumacy, and so aggravate the crime, as to found a process of the censure of the higher excommunication, which is to be inflicted, or not, as may tend most to the reclaiming of the guilty person, and edification of the Church.

#### CHAPTER IV.

##### *Concerning the Sin of Fornication, Adultery, and Scandalous Carriage tending thereto.*

1. In delations about the sin of uncleanness, it falls frequently out that when the matter is put to the strictest trial, all that can be proven is but presumptions of guilt, or scandalous behaviour, and not the act of uncleanness, the same being a work of darkness ; and therefore this should oblige the kirk-session to be very cautious how to admit the public entering a process without good warrant, where there is not a child in the case, unless the scandal be very flagrant.

2. Many of these actions which give occasion to the raising a scandal of uncleanness, are such as are not themselves alone publicly censurable, but to be passed by with a private rebuke or admonition.

3. Yet some of these actions which come under the name of scandalous behaviour may be so lascivious and obscene, and clothed with such circumstances, as may be as offensive as the act of uncleanness itself, and as censurable.

4. If a married woman, whose husband hath been notoriously absent for a considerable time beyond the ordinary time that women use to go with child, be found with child, this also may give ground to a kirk-session for a process against her ; but in this case judicatures should be prudent in considering well all circumstances, and whether or not the person hath been always of entire fame before, as also how the public fame now runs.

5. When an unmarried woman is known to be with child, the same gives ground to a kirk-session for a process against her, and after she is cited before the session and appeareth, she is to be interrogate who is the father of that child ; and though in other cases the divulging of a secret may be very imprudent, and indeed the raising of a scandal, yet in this case, where there is a child, whereby there is an undeniable scandal, and the keeping secret of the father a ground

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of greater offence, and of suspecting many innocent persons, if she discover not the father she is to be looked upon as contumacious.

6. Prudence may sometimes require that the person she nameth to be the father of the child be informed thereof, and spoken to privately, and if he deny the same, he is seriously to be dealt with to confess; but if he still deny, then the session is to cause cite him to appear before them.

7. In this process, when the delated father compeareth he is to be interrogate, and if he deny, he is to be confronted with the woman, and the presumptions as particularly held forth as possible; and all along there should be private treating with him, in all meekness, charity, and seriousness; and if after all this he deny, though the woman's testimony can be no sufficient evidence against him, yet pregnant presumptions, such as suspicious frequenting her company, or being *solus cum solâ in loco suspecto*, or in suspect postures, and suchlike, which he cannot disprove to the satisfaction of the session, may so lay the guilt upon him, as to show him that there appears no other way of removing the scandal but his appearance to be publicly rebuked therefor. If he will not submit himself to be rebuked as above, it perhaps may be more for edification that a true narrative of the case be laid before the congregation, and intimation given that there can be no further procedure in that matter, till God in his providence give further light, and to sist there at the time, than that an oath be pressed, and upon refusal proceed to the higher excommunication; but if the person accused do offer his oath of purgation, and crave the privilege thereof, the presbytery may (if they shall judge it for edification and removing of the scandal) allow the same, which may be to this purpose. "I, A. B., now under process before the presbytery of \_\_\_\_\_, for the sin of \_\_\_\_\_, alleged to be committed by me with C. D., and lying under that grievous slander, being reputed as one guilty of that sin; I, for ending of the said process, and giving satisfaction to all good people, do declare before God and this \_\_\_\_\_, that I am innocent and free of the said sin of \_\_\_\_\_, or having carnal knowledge of the said C. D., and hereby call the great God, the judge and avenger of all falsehood, to be witness and judge against me in this matter, if I be guilty; and this I do by taking his blessed name in my mouth, and swearing by him, who is the great judge, punisher and avenger, as said is, and that in the sincerity of my heart, according to the truth of the matter and mine own conscience, as I shall answer to God in the last and great day, when I shall stand before him to answer for all that I do in the flesh, and as I would partake of his glory in heaven after this life is at an end."

8. In taking this oath for purgation, all tenderness and caution is to be used, nor is the session to press any man thereto, but they are to deal with him and his conscience as in the sight of God; and if he offer to give his oath, the judicature are to accept it or not as they shall see cause, and then to proceed to remove the scandal, with the advice of the presbytery, as may be most to edification. But this oath is not to be taken in any case but this, when the presumptions are so great that they create such jealousy in that congregation and session, that nothing will remove the suspicion but the man's oath of purgation, and when his oath will probably remove the scandal and suspicion: in all other cases this oath is in vain, and so should not be admitted, and never but by advice of the presbytery.

9. This oath for purgation is to be taken either before the kirk-session or presbytery, or the congregation, as the presbytery shall determine; and if the oath be taken before the session or presbytery, it is to be intimate to the congregation that such a person hath taken such an oath, and the party may be obliged to be present in the congregation, and may be put publicly to his own purging himself by oath, and so be declared free from the alleged scandal.

10. After an end is made as above with the delated father, the woman is to be dealt with to give the true father ; and if, after all serious dealing and due diligence, she give no other, she is to be censured according to the quality of the offence confessed by her, without naming the person delated by her, the judicature reserving place for further censure upon further discovery.

11. If the woman who hath brought forth the child doth declare she knoweth not the father, alleging she was forced, as in the fields, by a person unknown, or any the like reason ; in these cases great prudence is to be used, the former behaviour of the woman exactly searched into, and she seriously dealt with to be ingenuous ; and if she hath been of entire fame, she may be put to it to declare the truth as if she were upon oath, but not without the advice of the presbytery, and no formal oath should be taken ; and if the woman confess she was not forced, but doth not know the man, whether married or unmarried, the same censure is to be inflicted upon her as in the case of adultery.

12. If a person doth voluntarily confess uncleanness, and if there be no child, and the case be brought to the kirk-session, the session is to inquire what presumptions there are of the truth of the thing confessed, or what may have moved the person to make that confession, whether it floweth from disquietude of mind, or from sinistrous design, as when a man suing to a woman for marriage is denied, and for revenge, or for to obtain his desire, spreads the report that he hath been guilty with her, they are to be dealt with according as the presumptions upon search are found or not.

13. If it be found that there is no ground for the confession, and that it is false, the person confessing is to be censured as defaming himself, and likewise as a slanderer of the other party ; and withal, application is to be made by the session to the civil magistrate, that he may be punished according to law.

14. If there be need of witnesses, the directions formerly mentioned (Chapter II.) are to be followed.

15. When persons guilty of uncleanness live, one in one parish and another in another parish, the process against them, and censures, are to be before the session of the parish where the woman liveth, or where the scandal is most notour.

16. If a scandal of uncleanness be committed where neither parties reside, as if persons having their fixed residence in one parish do commit uncleanness in another parish, or perhaps in the fields, or in the time of fairs or markets ; in these cases they are to be processed and censured where their ordinary abode is, except the place of their abode be at a considerable distance from the place where the sin was committed, and the scandal be most flagrant where it was committed.

17. When there is a scandal of uncleanness whereof persons are guilty living in different parishes, the session where the sin was committed is to acquaint the other sessions where any of the persons reside, who are *ex debito* to cause summon these persons to appear before that session where the scandal is to be tried.

18. When a person is convict of scandal by a session of another congregation than his own, and the censure of the lesser excommunication is inflicted, the session is to send an account thereof to that session to which he belongs ; but there is no need of any other sentence of his own session to fix the censure on him, but only a public intimation thereof to be made in his own parish.

19. When a person is censured and absolved from his scandal in another congregation than where he lives, he is to bring a testimonial of his absolution, which is to be intimate to the congregation he lives in, if the scandal be also flagrant there ; otherwise it will be sufficient to intimate the same to the session, and the same is to be done in the case of the profession of repentance, where there has been a sentence of the lesser excommunication.

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## CHAPTER V.

*Concerning Appeals from a Kirk-Session to a Presbytery, etc.*

1. All persons who judge themselves lesed by the procedure or sentence of a kirk-session, may appeal to the presbytery, by declaring and protesting at passing of the sentence, and should thereupon, according to the 8th Act of the General Assembly, 1694, give in the appeal with the reasons thereof in writ, to the moderator or clerk of the session, within the space of ten days after the time of appealing, and procure extracts thereof, and present the same to the next meeting of presbytery thereafter, if there be a competent time, at least ten days free betwixt the time of appealing and the meeting of the presbytery; and should then insist in the appeal, wherein, if the appellant fail, the appeal *ipso facto* falls, and becomes null, and the appellant is to be held as contumacious, and proceeded against accordingly by the kirk-session.

2. When an appeal is brought from a kirk-session to a presbytery, the presbytery is to consider whether the cause is of that nature as it behoveth at length to come to the presbytery by the course of discipline, before the final determination thereof; as if it be in a process of alleged adultery, or suchlike, then the presbytery, to save themselves time, may fall upon the consideration of the affair, without insisting much upon the *bene* or *male appellatum*, though it seem to be preposterously appealed.

3. But if the cause be such as the kirk-session are the competent and proper judges of, even to its ultimate decision, and if there hath been no cause given by the kirk-session, by their breaking the rules of an orderly process, either by the course of the process, or by the incompetency of the censure, the presbytery is not to sustain the appeal.

4. If the presbytery do not sustain the appeal, and find there hath been some fault, passion, or culpable mistake, in the appellant, the presbytery is to inflict some censure, such as a reproof before the presbytery, or appoint an acknowledging of their precipitancy before their own session, or suchlike, on these appellars they find to have been malicious and litigious, thereby to prevent unnecessary appeals; and that besides remitting back to the session, to stand either to the censure of the session, if it be inflicted already, or to sist themselves during the process, if it be depending.

5. If the appeal be sustained, and yet upon proceeding on the cause the presbytery find the appellant censurable, it is always to be minded, that whatever censure be inflicted to remove the offence he hath given to the presbytery, yet the appellant, if found guilty, is to undergo a censure, either before the kirk-session or congregation he belongs to, such as the presbytery thinks he deserves, else presbyteries will be always troubled with appeals.

6. If, on the other hand, on trial of the process, the presbytery find the kirk-session hath unwarrantably proceeded, either in contributing to the raising of a scandal, or inflicting the censure without a sufficient cause, and thereby the appellant lesed, the presbytery is not only to assoilzie the appellant, but to take such ways as may be proper and effectual to vindicate the appellant's innocency, and wipe off the scandal taken at him.

7. Herein the presbytery is to exercise great prudence, doing justice to the innocent, yet so as not to weaken the kirk-session's authority in that congregation, if in justice it can be avoided.

8. But such an emergent may very well occasion the presbytery's giving the minister and elders of that session suitable injunctions and rules to walk by, or private admonitions, or to call for a visitation of their session register.

9. The same method is to be followed in appeals from presbyteries to synods, and from synods to general assemblies.

10. An appeal being made by parties, should sist the execution of the sentence appealed from, only while the appeal is duly and diligently prosecuted, and may thereby be determined; otherwise not, unless the judicature appealed to receive the appeal, and take the affair before them, and in that case the judicature appealed from is to sist until the appeal be discussed.

## CHAPTER VI.

*Concerning Processes, which natively begin at the Kirk-Session, but are not to be brought to a final determination by them.*

1. There are some processes, which natively begin at the kirk-session, which, for the atrocity of the scandal, or difficulty in the affair or general concern, the session having the opportunity of frequent meetings of the presbytery to have recourse therunto, do not determine of themselves; such as scandals of incest, adultery, trilapses in fornication, murder, atheism, adultery, witchcraft, charming, and heresy and error, vented and made public by any in the congregation, schism and separation from the public ordinances, processes in order to the highest censures of the Church, and continued contumacy; but the kirk-session having received information of such gross scandals, they are to weigh the same according to the rules and directions prescribed them in processes which belong to their peculiar province, and if they find good ground for a process, they are to deal with the person accused to confess that which now cannot be hid nor amended, till satisfaction be made to the Church, which, when done, the session is to refer the case, and send an extract of their procedure thereanent to the presbytery.

2. When there is no confession of the scandals above mentioned, the session are not to proceed to lead probation by witnesses or presumptions, till an account of the matter be brought by reference to the presbytery as aforesaid, and the presbytery do thereupon appoint the session to proceed and lead probation; and after probation is led, the same is to be brought to the presbytery, who may inflict what censure they see cause.

3. Sometimes it will fall out that the process is so clear, as in a case of judicial confession, that the kirk-session may summon the delinquents when before them *apud acta*, to compare before the presbytery, without previous acquainting them thereof; but where there is any difficulty, the kirk-session should inform the presbytery, and take their advice, before a party be summoned before them.

4. When the party or parties compare before the presbytery, if they confess and profess repentance for their sin, then the presbytery, having gravely rebuked and seriously exhorted the party or parties, are to determine the censure, and prescribe the time and place of the parties, their profession of their repentance publicly in the church of that congregation where the process began, the scandal being there to be taken away, or remit them to the session, to stand either to the censure of the session, or receive orders thereanent.

5. It is thought more fit that the delinquents be appointed to remove the scandal in the congregation where the offence is most flagrant, especially if they reside there, rather than in the place where it was committed, if it be not public there, and that information of the removing thereof be made in other places, if the judicature shall find it needful.

6. When persons censured for these grosser scandals do apply to the kirk-session for relaxation, they may both be privately conferred with, and likewise their acknowledgments heard before the session; but they ought not to be brought before the congregation, in order to their absolution, nor absolved, but by advice and order of the presbytery.



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## CHAPTER VII.

*Concerning Processes against Ministers.*

1. All processes against any minister are to begin before the presbytery to which he belongeth, and not before the kirk-session of his own parish.

2. The credit and success of the gospel (in the way of an ordinary mean) much depending on the entire credit and reputation of ministers, their sound doctrine, and holy conversation, no stain thereof ought lightly to be received, nor when it comes before a judicature ought it to be negligently inquired into, or when found evident, ought it to be slightly censured.

3. And because a scandal committed by a minister hath on these accounts many aggravations, and once raised, though it may be found to be without any ground, yet it is not easily wiped off; therefore a presbytery would exactly ponder by whose information and complaint it comes first before them, and a presbytery is not so far to receive the information, as to proceed to the citation of a minister, or any way begin the process, until there be first, some person who, under his hand, gives in the complaint, with some account of its probability, and undertakes to make out the libel. *2d*, Or at least do, before the presbytery undertake to make it out, under the pain of being censured as slanderers. Or, *3d*, That the *fama clamosa* of the scandal be so great, as that the presbytery, for their own vindication, see themselves necessitate to begin the process, without any particular accuser; but the presbytery in this case should be careful, first to inquire into the rise, occasion, broachers, and grounds of this *fama clamosa*.

4. All Christians ought to be so prudent and wary in accusing ministers of any censurable fault, as that they ought neither to publish or spread the same, nor accuse the minister before the presbytery, without first acquainting the minister himself, if they can have access thereto, and then, if need be, some of the most prudent of the ministers and elders of that presbytery, and their advice got in the affair.

5. If there shall be ground found to enter in a process against a minister, the presbytery should first consider the libel, then order him to be cited, and to get a full copy, with a list of the witnesses' names to be led for proving thereof, and a formal citation in writ is to be made either personally, or at his dwelling-house, bearing a competent time allowed to give in answer to the libel, and his just defence and objections against witnesses, at least ten free days before the day of compearance, and the citation should bear the date when given, and the names of the witnesses to the giving thereof; and the execution, bearing its date, with the names and designations of the witnesses, should be made in writ, and signed by the officer and witnesses; which being accordingly returned, he is to be called, and if he compare, the libel is to be read unto him, and he is to be inquired if he has answers to give in to the libel, that they may be read and considered, in order to the discussing of the relevancy; and if the presbytery find the same, and that there is cause to insist, they are to endeavour to bring him to a confession, whereby he may most glorify God; and if he confess, and the matter confessed be of a scandalous nature, censurable in others, such as the sin of uncleanness, or some other gross scandal, the presbytery (whatever be the nature of his penitency, though to the conviction of all) are *instantanter* to depose him *ab officio*, and to appoint him in due time to appear before the congregation where the scandal was given, and in his own parish, for removing the offence, by the public profession of his repentance.

6. If a minister be accused of any scandal, and cited to appear before his own presbytery, and do absent himself by leaving the place and be contumacious,



without making any relevant excuse, after a new public citation and intimation made at his own church, when the congregation is met, he is to be holden as confessed, and to be deposed and censured *instantly* with the lesser excommunication; but if after some time he do not return and subject himself to the censure of the Church, he may be proceeded against till he be censured with the greater excommunication, if the judicature see cause for it.

7. If the minister accused do appear and deny the fact after the relevancy is found, the presbytery proceeding to probation, and to find the truth of the matter, all the circumstances are to be exactly canvassed, and the accused heard to object against the witnesses. As also, he should be allowed to be present at the examination, and modestly to cross-interrogate, and then the reputation of the witnesses and their hability duly regarded, and the examination considered. If, after consideration of all these, the judicature shall find the scandal sufficiently proven, they are to proceed to censure, as advised in the case of confession. See preceding page.

8. If the matter laid to the minister's charge be such practices as in their own nature manifestly subvert that order, unity, and peace which Christ hath established in his Church, or unsoundness and heterodoxy in doctrine, then great caution should be used, and the knowledge and understanding of witnesses much looked into; and withal, if the errors be not gross and striking at the vitals of religion, or if they be not pertinaciously stuck unto, or industriously spread, with a visible design to corrupt, or that the errors are not spreading among the people, then lenitives, admonitions, instructions, and frequent conferences are to be tried to reclaim without cutting off, and the advice of other presbyteries sought; and unless the thing be doing much hurt, so as it admits of no delay, the Synod or General Assembly may be advised with in the affair, and the same intimate to the minister concerned.

9. If the libel and complaint brought against a minister be a multitude of smaller things laid together, as several acts of negligence, or other unsuitable actions, the presbytery in proceeding therein are to make a presbyterial visitation of that parish to which the minister belongs; and at the said visitation are first to see if any of these things now laid to the minister's charge were committed prior to the last presbyterial visitation of that parish, and whether they were then laid to his charge; and if they were not, it should be tried how they come to be laid to his charge now.

10. If the presbytery find these things laid to his charge to be committed since the last visitation, or find a satisfying reason wherefore they were not then tabled, they are to inquire what diligence hath been used in acquainting the minister with the offence taken at these things when first committed by him, and how far the minister hath been guilty of giving offence, after he knew offence to be taken.

11. It should likewise in this case be inquired, whether any of the complainants did first in a prudent private way inform any of the neighbour ministers of some of these things committed by their minister, who is now challenged, before these offences came to be so many as to merit a public and solemn trial; and accordingly the presbytery is to judge.

12. If the presbytery find, upon trial, the complaint to resolve upon the minister's having committed such acts of infirmity or passion, as, considering all the circumstances, may be either amended and the people satisfied, and no such offence taken, or at least not to remain, so as to hinder the minister's profiting the people, and that the offence was taken by the minister's own people only or mainly; then the presbytery is to take all prudent ways to satisfy and reclaim both minister and people, and do away the offence.

13. But before a minister deposed for scandalous carriage can be restored to the exercise of the ministry, there should not only be convincing evidences of a deep sorrow for sin, but an eminent and exemplary humble walk, and

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edifying conversation, so apparent and convincing as hath worn out and healed the wound the scandal gave.

14. Immediately on the minister's being deposed by the presbytery, the sentence is to be intimate in his congregation, the church declared vacant, the planting thereof with another minister hastened, and never delayed on the expectation of his being reponed, it being almost impossible that ever he can prove useful in that parish again.

## CHAPTER VIII.

*Concerning Processes in order to the Censure of the Greater Excommunication.*

1. Since there is a distinction betwixt the greater and the lesser excommunication, it seems that whatever have been the causes of the first process, yet ordinarily all processes that are in order to the greater excommunication are to be grounded on manifest contumacy, or obstinate continuance in scandalous practices; and where there is no manifest contumacy, or continuance as aforesaid, the lesser excommunication needs only have place. Yet in some extraordinary cases, the Church, according to Scripture warrant, hath summarily excommunicated persons guilty of notour atrocious scandalous sins, to show the Church's abhorrence of such wickedness.

2. Even where there hath been a scandal delated, and contumacy following by not appearing, it should be considered whether any scandalous practice hath been proven or not; if not proven, then only the simple contumacy is to be proceeded against, for which it were hard to go a greater length than the lesser excommunication.

3. If the scandal hath been proven, and the censure of the lesser excommunication intimated, as in Chapter III., it seems most reasonable that there be no further proceeding, unless the scandal be gross, or of a heinous nature, or that it is spreading and infectious, as in heresies or schism in the Church: in which cases contumacy is to be proceeded against, in order to the greater excommunication.

4. The kirk-session having brought the process to an intimation of the censure of the lesser excommunication, before they inflict the same, they are to refer the affair to the presbytery, bringing their whole proceedings before the presbytery in write, that the presbytery may thereby have a clear and full view of the whole affair.

5. The presbytery finding the kirk-session hath orderly proceeded, and that the lesser excommunication is not sufficient, and that the affair is so weighty as to oblige them to enter on the process, they are to cause their officer to cite the scandalous person.

6. If the party appear, then the presbytery is to proceed in the inquiry at the accused, about the scandal alleged and libelled; and if he deny it, then they are to proceed, and lead probation as in other cases.

7. But if the party appear not, but condemn the citation, the presbytery causeth renew the same, until he hath got three citations, and after the three citations, he is to be cited out of the pulpit: and for the further conviction of all concerned, intimation is to be made, that the judicature will proceed and inquire into the presumptions or probation of the guilt, and this is to be done although the delinquent be absent.

8. Then the presbytery is to order the minister of the congregation, next Sabbath after forenoon's sermon, to acquaint the congregation what proceedings the kirk-session first, and thereafter the presbytery, hath made in the affair, and how contumacious the party was, and that the presbytery intended to proceed to the highest censure; and the minister is gravely to admonish

the party (if present) to repent and submit himself to the discipline of the Church, threatening him, if he continue impenitent, that the Church will proceed; yea, though he be absent, the minister is to acquaint the people that the Church requires him to repent and submit, as above said, under the foresaid certification.

9. There should be three public admonitions, and a presbytery should intervene betwixt each admonition; and if, after all, that person continue impenitent or contumacious, the same is to be represented to the presbytery, who are thereupon to appoint public prayers thrice to be made, in which the minister is to exhort the congregation seriously to join with him in prayer, for the scandalous, impenitent, or contumacious person, which he is solemnly to put up to God, humbly begging that he would deal with the soul of the impenitent, and convince him of the evil of his ways.

10. These public prayers of the Church are to be put up three several Sabbath days, a presbytery (where its meetings are more frequent, once a month at least) intervening betwixt each public prayer, both to show the Church's tenderness towards their lapsed brother, their earnestness to have him reclaimed, and likewise to create a greater regard and terror of that dreadful censure both in the party and in all the people.

11. If after all, the scandalous person makes no application, but continues impenitent, the presbytery, after prayer, is to pass sentence, and appoint a minister to intimate the same, and to show the presbytery's resolution to proceed upon such a Sabbath as they shall name, for pronouncing that dreadful sentence solemnly in face of the congregation, unless either the party, or some one for him, signify some relevant ground to stop their procedure.

12. That day being come, it were fit the minister did preach a sermon suited to that solemn occasion, or, at least, after sermon the minister should show the congregation what he is going about, introducing the narrative of the process, with a discourse concerning the nature, use, and end of Church censures, particularly that of the greater excommunication, if he hath not done it fully in his sermon.

13. Then narrating all the steps of the process in order, showing the Church's faithfulness and tenderness towards the scandalous person, and declaring his obstinate impenitency; and that now, after all other means were used, there remained only that of cutting off the scandalous person from the society of the faithful, and intimating the Church's warrant and order to him so to do.

14. And before the minister pronounce the sentence, he is to pray, and desire all the congregation to join with him therein, that God would grant repentance to the obstinate person, would graciously bless his own ordinance, and make the censure effectual, both to edify others, and to be a mean to reclaim the obstinate sinner.

15. Then, after prayer, the minister is with great gravity and authority to pronounce the censure, showing his warrant from our Lord's command, and the apostle Paul's direction, and recapitulating the presbytery's warrant in obedience thereunto, and resuming the scandalous and obstinate person's behaviour, whom he is to name. He, therefore, in the name and authority of our Lord and Master Jesus Christ, doth, *in verbis de presenti* pronounce and declare him or her excommunicated, and shut out from the communion of the faithful, debarring that person from their privileges; and, in the words of the apostle, delivering that person over to Satan; which sentence is to be intimate according to the 9th Act of the Assembly, anno 1704.

16. If, after prayer, or before the censure be pronounced, the scandalous person do make any public signification of his repentance, and of his desire to have the censure stopped, the minister, upon apparent seriousness in the scandalous person, which he sheweth to the congregation, may thereupon delay pronouncing the sentence, till he report to the presbytery at their next

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meeting, who are then to deal with the scandalous person as they shall find cause.

17. After the pronouncement of this sentence, the people are to be warned, that they hold that person to be cast out of the communion of the Church, and that they shun all unnecessary converse with him or her; nevertheless excommunication dissolveth not the bonds of civil or natural relations, nor exempts from the duties belonging to them.

18. Although it be the duty of pastors and ruling elders to use all diligence and vigilance, both by doctrine and discipline respectively, for preventing and purging out such errors, heresies, schisms, and scandals, as tend to the detriment and disturbance of the Church, yet because it may fall out, through the pride and stubbornness of offenders, that these means alone will not be effectual to that purpose, it is therefore necessary, after all this, to employ the aid of the civil magistrate, who ought to use his coercive power for the suppressing of all such offences, and vindicating the discipline of the Church from contempt.

## CHAPTER IX.

*Concerning the Order of Proceeding to Absolution.*

1. If after excommunication the signs of repentance appear in the excommunicated person, such as godly sorrow for having incurred God's heavy displeasure by his sin, occasioned grief to his brethren, and justly provoked the Church to cast him out of their communion, together with a full purpose of heart to turn from his sin unto God through Christ, and to reform his life and conversation, with a humble desire of recovering peace with God and his people, and to be restored to the favour of God and light of his countenance, through the blood of Jesus Christ, and to the communion of the Church; and the presbytery, upon his application, be satisfied therewith, and judge that he ought to be absolved, and thereupon give warrant for his absolution, he is to be brought before the congregation, and there also to make free confession of his sin, and sorrow for it, to call upon God for mercy in Christ, to seek to be restored to the communion of the Church, promising to God, through grace, new obedience, and more holy and circumspect walking as becomes the gospel; and that this appearance before the congregation be as often as church judicatures shall find may be for edification and trial of the professing penitent's sincerity; and being satisfied in this, then the minister and congregation are to praise God, who delighteth not in the death of a sinner, but rather that he should repent and live; as also for blessing the ordinance of excommunication, and making it effectual by his Spirit to the recovering of this offender, to magnify the mercy of God through Jesus Christ, in pardoning and receiving to his favour the most grievous offenders, whensoever they unfeignedly repent and forsake their sins. But before the minister proceed to absolution, he is to pray with the congregation to this effect:—"That the Lord Jesus Christ, Prophet, Priest, and King of his Church, who, with the preaching of the gospel, hath joined the power to bind and loose the sins of men; who hath also declared that whatsoever by his ministers is bound on earth shall be bound in heaven, and also that whatsoever is loosed by the same shall be loosed and absolved in heaven, would mercifully accept his creature N., whom Satan of long time hath holden in bondage, so that he not only drew him to iniquity, but also so hardened his heart that he despised all admonitions; for the which his sin and contempt the Church was compelled to excommunicate him from the society of the faithful; but now seeing the Holy Spirit by His grace hath so prevailed, that he is returned and professeth repentance toward God, and faith toward our Lord Jesus Christ, that it may

please God by His Spirit and grace to make him a sincere and unfeigned penitent, and for the obedience of our Lord Jesus Christ unto death, so to accept of this poor believing and returning sinner, that his former disobedience be never laid to his charge, and that he may increase in all godliness, so that Satan in the end may be trodden under foot by the power of our Lord Jesus Christ, and God may be glorified, the Church edified, and the penitent saved in the day of the Lord.

2. Then shall follow the sentence of absolution, in these or the like words: "Whereas thou, N., hast for thy sin been shut out from the communion of the faithful, and hast now manifested thy repentance, wherein the Church resteth satisfied, I, in the name of the Lord Jesus, before this congregation, pronounce and declare thee absolved from the sentence of excommunication formerly denounced against thee, and do receive thee to the communion of the Church, and the free use of all the ordinances of Christ, that thou mayest be partaker of all His benefits to thy eternal salvation."

3. After this sentence of absolution, the minister speaketh to him as to a brother, exhorting him to watch and pray, and comforting him as there shall be cause; the elders embrace, and the whole congregation holdeth communion with him, as one of their own; and the absolution should be intimate in all the churches where the excommunication was intimate.

*Report of the Committee on the Form of Process given in to, and  
approved of by, the Assembly 1855.*

This Committee was appointed by the last General Assembly "to consider whether any further steps ought to be taken in the way of explaining the practical operation of the Form of Process as now altered, or consolidating into one Act the overtures converted by this and the previous General Assembly into standing laws of the Church, with instructions to report to next Assembly."

Report of the  
Committee on the  
Form of Process.

The Committee, having considered the matter thus remitted to them, are of opinion that no immediate steps should be taken with a view to the consolidation of the overtures into one Act, but that, before the adoption of that course, more time should be allowed for a careful estimate throughout the Church of the state of the law as now settled. On the other hand, the Committee think that, as the changes have been effected, not by one complete enactment, but by several separate Acts passed in successive years, it is desirable to bring under the view of our Church Courts, in a distinct and comprehensive manner, the nature of that order of procedure which results from the recent legislation. Ministers and elders must, of course, interpret that legislation for themselves, and, in case of difference of opinion, the Assembly will, of course, decide between the parties. But were the Assembly to authorise the transmission to the members of Presbyteries of copies of the present report, without, of course, interposing any special sanction to its suggestions, the Committee hope that these suggestions may be useful in affording assistance towards the interpretations of the Acts in the meantime, and towards maturing the judgment of the Church for any more authoritative explanation in the future.

I. In the first place, it is desirable that the Acts should be brought together before the eye, not in the order of their enactment, but in the order of their practical application.

In this view the recent legislation stands as follows:—

1. That, hereafter, in every case of *charge* or *fama* against a Minister of this Church, which is of such a nature as may lead to the necessity of serving the accused party with a libel, no complaint or appeal shall have the



APPENDIX  
X.

## Cases of Libel.

1853, Act V.

effect of sisting procedure until a libel shall have been served and found relevant.

2. That when a Presbytery are themselves the libellers in a case of *charge* against a Minister of this Church, they shall, before serving the libel, summon the accused party in regular form to attend a meeting of Presbytery, at which it shall be proposed to consider the propriety of serving it, and they shall, at the same time, furnish him with a copy of it. That the meeting shall not be held for at least ten free days after the Minister shall have been summoned and been furnished with a copy of the libel. That, at that meeting, the Presbytery shall carefully consider the question of its relevancy; and that thereafter, if they serve it, they shall serve it as a libel which they have already judged to be relevant.

1852, Act VI.

3. That, in every case in which a Presbytery shall have resolved to order a libel to be served upon a Minister of this Church, the accused Minister shall *ipso facto* cease to exercise the functions of his office, both ministerial and judicial, until the libel shall have been finally disposed of.

1854, Act X.

4. That, hereafter, in every case in which a libel shall have been served against a Minister by a Presbytery as prosecutors, it shall be a competent ground on which the Presbytery, if they see fit, may refer the case to the Superior Courts, that it does not appear expedient, in the circumstances, for the Presbytery to act both as prosecutors and judges: that, in the event of any such reference having been duly brought under the consideration of the General Assembly, it shall be competent to the Assembly, if they see fit, to appoint a Special Commission to hear the evidence on both sides, and give a deliverance as to its effect; and that any Special Commission so appointed shall report their deliverance to the General Assembly, or to its ordinary Commission at one of its stated diets (as the Assembly may direct), who shall pronounce such sentence, or issue such instructions to the Presbytery, as to them may seem just.

1854, Act IX.

5. That, hereafter, in every case in which a libel shall have been served against a minister and found relevant, it shall be a competent ground on which the Presbytery, if they see fit, may refer the case to the Superior Courts, that it does not appear expedient, in the circumstances, for the proof to be taken except in the presence of those who have the power of giving a final deliverance as to its effect: that, in the event of any such reference having been duly brought under the consideration of the General Assembly, it shall be competent to the Assembly, if they see fit, to appoint a Special Commission to hear the evidence on both sides, and give a deliverance as to its effect; and that any Special Commission so appointed shall report their deliverance to the General Assembly, or to its ordinary Commission at one of its stated diets (as the Assembly may direct), who shall pronounce such sentence, or issue such instructions to the Presbytery, as to them may seem just.

1854, Act VIII.

6. That, hereafter, in the event of the General Assembly sustaining an appeal, or a dissent and complaint against the relevancy of a libel against a minister, it shall be competent for the Assembly, if they see fit, to correct the libel, and appoint the case to be tried with the amended libel.

II. It is desirable to point out the bearing of each of these enactments in its order upon the course of proceeding in connection with the old constitutional law of the Church.

1. It has been enacted that, in every case of *charge* or *fama* against a minister of this Church, which is of such a nature as may lead to the necessity of serving the accused party with a libel, no complaint or appeal shall have the effect of sisting procedure, until a libel shall have been served and found relevant.

The Committee consider that this arrangement applies to every case in



which there is any serious allegation against a minister, such as, if established, may scripturally and constitutionally affect his character or standing ; that it applies, in every such case, to all competent complaints or appeals which may be taken, up to the point when the process of serving the libel and the act of finding it relevant shall both have been completed, whether the act of finding the libel relevant shall have come before the process of serving it, as now provided for in the case of the Presbytery being themselves the prosecutors, or shall have come after it, according to the old and unchanged rule of procedure in the case of third parties having appeared as prosecutors.

The Committee are further of opinion, that although procedure can no longer be sisted by complaints or appeals during the stages referred to in this enactment, still every complaint or appeal, which would previously have been competent, may now be competently taken against each judgment of the Presbytery, and must go in regular course to the Provincial Synod, if its meeting take place before that of the General Assembly, and directly to the Assembly only when no meeting of the Synod shall intervene.

2. It has been enacted that, when a Presbytery are themselves the libellers, they shall, before serving the libel, summon the accused party in regular form to attend a meeting at which it shall be proposed to consider the propriety of serving it, and shall, at the same time, furnish him with a copy of it. That the meeting shall not be held for at least ten free days after the minister shall have been summoned and been furnished with a copy of the libel ; that, at that meeting, the Presbytery shall carefully consider the question of its relevancy ; and that thereafter, if they serve it, they shall serve it as a libel which they have already judged to be relevant.

The Committee consider that the expression "accused party" in this enactment must not be understood as constituting the minister a party at the bar of the Presbytery. For, by the supposition made, the Presbytery have not as yet resolved, even as prosecutors, that there is any relevant ground of charge against him. But an allegation has been made to his prejudice, and the Presbytery are about to consider the question as to whether it will be their duty or not to serve him with a libel ; and in order that he may suffer no injustice, the Presbytery must specially summon him to attend their meeting in his place as a member, and must intimate to him definitely the form which the accusation, if they shall resolve to take it up and charge him with it, will assume in their hands.

The Committee consider that, if the Presbytery before serving the libel shall make any change upon the form in which it appeared in the copy with which the minister had been previously furnished, they must, before serving it, again furnish him with a copy, and again summon him in the terms of this enactment.

The Committee are of opinion that the expression *regular form*, employed in the first clause of this enactment, indicates that the Presbytery cannot competently proceed in absence of the minister, without repeating the process of summoning three times, according to the old practice.

The Committee further consider that the minister, or any other member of Court, may take a dissent and complaint against any judgment of the Presbytery, by which the libel is found in any respect relevant, or the reverse, whether that judgment be simply a resolution to serve or not to serve the libel, or a particular deliverance on any particular point raised. The Committee think that any such dissent or complaint must go to the Provincial Synod, if it meet before the General Assembly, but that it will not sist procedure until the Presbytery shall have evidence before them that the libel has been duly served.

3. It has been enacted that, when a Presbytery have resolved to order a

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## Cases of Libel.

libel to be served, the accused minister shall *ipso facto* cease to exercise his functions until the libel shall have been disposed of.

The Committee have to observe here, in the first place, that this rule has no application while the Presbytery are only considering the relevancy of a libel, which they are proposing themselves to serve as prosecutors, and before they have actually resolved to serve it. This observation illustrates the importance of what has been said, in relation to the previously considered enactment, as to the minister being not yet a party at the bar.

But the Committee have to observe, secondly, that the expression *resolved to order* in this enactment, shows that the minister becomes a party at the moment when the resolution to have the libel served has been come to. The Presbytery, therefore, must not wait, before acting upon the rule here laid down, until they shall have proof of the libel having been actually served, but must, in the face of all dissents and complaints, proceed at once to take charge of the minister's pulpit and congregation, according to the old law in cases of suspension.

4. It has been enacted that, after a libel shall have been served by a Presbytery, it shall be a competent ground on which the Presbytery may refer the case to the Superior Courts, that it does not appear expedient, in the circumstances, for the Presbytery to act both as prosecutors and judges.

The Committee consider that the Presbytery cannot competently adopt this procedure, until, at a meeting subsequent to that at which the resolution to order the libel to be served has been come to, they shall have competent evidence before them that the libel has been actually served in due form according to the old law.

The Committee consider that the expression *Superior Courts* implies that the reference is to be made to the next Superior Court, as the case may be; the Synod, if it meet before the General Assembly, and the Assembly itself, if there be no previous meeting of Synod, and the Commission of Assembly only in the event of the Assembly having specially empowered that body to receive complaints or appeals in the particular case. The Committee think that if the reference go to the Synod, the Synod may take one of three courses. It may either differ from the Presbytery and dismiss the reference, requiring the Presbytery to try the case themselves; or, secondly, it may sustain the reference, and resolve itself to try the case; or, thirdly, it may sustain the reference, and refer the case on to the General Assembly.

As it is very desirable that the words of the Presbytery's deliverance in such a reference should be clear and exact, the Committee would suggest the following form:—

“It having been duly certified to the Presbytery that the libel against Mr. A. B. has now been served in due form, and the matter being now ripe for further procedure, the Presbytery, after careful consideration, find that it does not appear expedient in the circumstances for them to act both as prosecutors and judges, and therefore, they hereby refer the case to the Free Provincial Synod of \_\_\_\_\_ at their meeting in \_\_\_\_\_ next, (or, as the case may be, to the General Assembly, etc.).”

The Committee are of opinion, that although a complaint or appeal would at this stage prevent the Presbytery from taking any other step, it should not be considered as preventing them from making the reference allowed by this enactment.

5. It has been enacted that a similar reference may be made, on the ground of its not appearing expedient for the proof to be taken, except in the presence of those who have the power of giving a final deliverance as to its effect.

The Committee would observe, first of all, as to this enactment, that it applies, not only to the case in which the Presbytery are prosecutors, but

also to that in which other parties are prosecutors, and that it takes for granted that in this last case the libel must be served before it has been found relevant, and the relevancy judged of according to the old law.

The Committee would observe, secondly, that the form of reference for the Presbytery ought to be varied as follows, in the case in which the Presbytery are not the prosecutors :—

“The libel having now been found relevant, and the matter being now ripe for further procedure, the Presbytery, after careful consideration, find that it does not appear expedient, in the circumstances, for the proof to be taken, except in the presence of those who have the power of giving a final deliverance as to its effect, and, therefore, the Presbytery hereby refer the case to the Free Provincial Synod of \_\_\_\_\_ at their meeting in next, (or, as the case may be, to the General Assembly, etc.).”

The Committee would observe, thirdly, that this enactment furnishes a ground on which the Synod may also refer the case to the Assembly. The Synod, however, may do so on other competent grounds.

The remaining parts of these two last-mentioned enactments refer to the General Assembly's own procedure, and the Committee think it unnecessary to make any remark upon them.

6. The same remark applies to the last enactment in order of application, by which it has been made competent for the Assembly to correct a libel, and to appoint the case to be tried with the amended libel.

It appears to the Committee that, for the present, they have sufficiently discharged their duty, in laying these suggestions before the Assembly.

#### ACT XIV. 1860.—ACT ANENT REVISAL OF LIBELS WHEN A PRESBYTERY ARE THE LIBELLERS.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain :—

That when it is proposed in a Presbytery that they should themselves be the libellers, in a case of charge against a minister of this Church, they shall not adopt any form of libel without having first submitted it for revision to the Legal Adviser of this Church.

Revisal of Libels when a Presbytery are the Libellers.

#### ACT XV. 1860.—ACT ANENT REVISAL OF LIBELS WHEN ANY PARTY OR PARTIES, OTHER THAN THE PRESBYTERY, ARE LIBELLERS.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain :—

That when a libel in case of charge against a minister of this Church shall be brought before a Presbytery by any party or parties, other than the Presbytery, the Presbytery shall not proceed to serve the said libel, or to consider its relevancy, until they have ascertained that the form of it has been submitted for revision to the Legal Adviser of this Church.

Revisal of Libels when any parties other than the Presbytery are Libellers.

#### ACT II. 1883.—ACT ANENT MODE OF TAKING EVIDENCE IN CHURCH COURTS.

The General Assembly, with consent of a majority of Presbyteries, hereby declare and enact,—That in all cases in which it is necessary to lead evidence before any Court or Special Commission of this Church, it shall be lawful for such Court or Special Commission to appoint, at the joint expense of the parties, a skilled Shorthand Writer to take down such evidence (who shall promise to make a faithful record); that he shall read over to each witness, at the close of his evidence, what he has taken down, that said

Mode of taking Evidence.

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## X.

*Cases of Libel.*

witness may say whether he admits it to be correct, and that afterwards he shall write out in full the evidence so taken down by him, and certify the same as correct; and the Moderator or Chairman shall also attest the same; and the record of evidence thus attested shall be held as valid, and be proceeded upon as the evidence in the case; and further, it shall not be competent, prior to the closing of the proof, to record reasons for any complaint or complaints against any decision of the Court or Special Commission on the admissibility of evidence, but that, when the proof has been declared closed, such reasons may be recorded.

*Questions of Evidence, etc., that may be raised in the consideration  
of a Libel.*

Questions of  
Evidence in  
a Libel.

It is impossible here to enter at any length into the law of evidence, but the following remarks may be of use in practice:—

1. Who are competent witnesses?

Many disqualifications formerly sustained are now abolished. The remaining may be classed under three heads.

(1.) *Mental Incapacity.*—Insane persons and idiots cannot of course be received. Children under twelve are not examined on oath, but they are admissible if they appear to be sensible of the duty of telling the truth, and even when so young as to be incapable of this, they are sometimes admitted, but must be corroborated by adults.

(2.) *Relationship of Husband and Wife.*—In criminal prosecutions neither spouse can give evidence for or against the other, unless he or she is the injured party. All other relations are competent witnesses for or against each other. The effect of natural affection or bias is left for remark on credibility.

(3.) *Undue Bias*—such as *having been bribed, or tutored as to what evidence to give, or cherishing malice and ill-will against the accused.*—These are still nominally grounds of disqualification, but in fact are rarely if ever sustained as objections to competency. Very strong grounds of fact are required, otherwise a witness, favourable to the accused, might disqualify himself from giving evidence against him by admissions falling under these heads.

Agency is not now a disqualification, but the law-agent, or person acting as such, cannot be compelled to disclose what was committed to him in that character, unless he is adduced as a witness by his own client. This does not extend to the case of a confidential friend, or even spiritual adviser.

The character of a witness, however bad, does not disqualify; it affects his credibility only.\*

There is often a peculiar delicacy in the position of a member of presbytery on this head. Where the libel is at the instance of the Presbytery, they unite the functions of prosecutors and judges, unless they adopt the course allowed by Act X., Assembly 1854. But usually no member of Presbytery will be admissible as a witness unless he carefully abstains from all participation in preparing or judging of the cause. When, on the other hand, the libel is at the instance of a private party, the members of Presbytery are bound to confine themselves strictly to the judicial character, and assistance given by them to the preparation of the cause will disqualify them for taking part in the deliberations.

Leading questions (*i.e.* asking a witness “Did he do or say so and so?” in place of “What did he do or say?”) are only allowed in the introductory part of the examination in chief; but when the witness shows hostility,

\* The paragraph which follows is mainly borrowed from the Book of Styles, published by the Church Law Society in 1838.

reluctance, or forgetfulness, it is permitted to recall circumstances by leading questions; and such questions are always allowed in cross-examination.

A witness ought not to be in Court while previous witnesses are examined; but it is not now imperative to reject a witness on the ground of his having been so in Court. The Court may judge whether, in the circumstances, injustice could be done by his examination being allowed.

## 2. What is competent evidence?\*

The questions put must be more or less pertinent to the cause. A witness must depone not only to his knowledge, but to his cause of knowledge. He must likewise speak to what he himself knows, not to what he has heard. It must be particularly remarked, that it is not competent for a witness to tell what a third party may have told him. This is hearsay—not evidence—and such questions ought never to be permitted to be asked or answered, with the following exceptions. It is competent to ask a witness to speak to what he has heard said by a party deceased—or by the accused—or by any one in the presence of the accused—or to what was said at the time the act charged took place, if such observations formed part of the *res gesta*—or to a common rumour or *fama* in the neighbourhood.

A witness examined as to facts cannot be competently asked his opinion generally; but he may be asked what belief or impression was produced at the time by the facts sworn to. But persons of skill may be examined as to their opinion on the facts, or on incidental points of the cause. Engineers, medical men, etc., are admissible in this capacity.

A witness may look at writings of his own made at the time, to refresh his memory, but not at those of another.

Although no witness is bound to criminate himself, it is competent to ask the witness questions having criminatory tendency, he being warned by the Court that he is not bound to answer them. If the witness declines to answer, the circumstance is, of course, taken as an element of proof.

The depositions or solemn declarations of witnesses are taken down in writing, and signed by them and the Moderator and Clerk.

It sometimes happens that the depositions or solemn declarations of aged persons, or parties about to leave the country, are taken out of Court, and produced in evidence. It seems impossible to fix any general rule as to the admissibility of such depositions or declarations. If, however, the parties so examined shall be in a situation, on the day of trial, to be adduced as witnesses, the deposition or declaration will, of course, go for nothing.

The examination for the prosecution being concluded, the accused is entitled to cross-examination, and when the whole proceedings for the prosecution are closed, he is entitled to call and examine witnesses on his own behalf.

The Presbytery, or any authorised Commission trying the case, must then declare the proof concluded, and proceed to consider its import.

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\* Borrowed from the Book of Styles.

## APPENDIX XI.

## FORMS AND STYLES.

## 1. Ordinary Matters.

## 1. FORMS FOR KIRK-SESSIONS.

(1.) *Specimen Minute of Kirk-Session, in which for brevity's sake, many particulars are inserted to show how they ought to be dealt with and expressed, though they might never all occur in the same Minute.*

At the day of 18 :  
The Kirk-Session of the Free Church Congregation at  
met, according to intimation from the pulpit, and was constituted, —Sede-  
runt, the Rev. , Moderator; Messrs.  
and , Ruling Elders.

The Minute of last meeting was read and approved of.

The Kirk-Session hereby recognise and record the fact that, on the  
day of the Rev. was  
ordained and inducted as Pastor of their Congregation, and has now for the  
first time taken his seat as Moderator of Session.

The Kirk-Session resolve that the ordinance of the Lord's Supper shall  
be observed in this Church on Sabbath, the day of  
next, and that a meeting of Session for the revisal of  
the Communion-roll, preparatory thereto, shall be held in ,  
on the day of , at o'clock.

The Session took into consideration the division of the Congregation into  
districts for the Elders, and resolve that it shall, in the meantime, stand as  
follows :—

The Session resumed consideration of the proposal made by Mr.

at the last meeting. It was moved, seconded, and unani-  
mously agreed to, That

The Session proceeded to elect a Ruling Elder to represent them in the  
Presbytery and Synod during the current half-year, in place of Mr.  
whose term of representation had expired after the meeting of  
Synod on the day of .

It was moved, seconded, and unanimously agreed to, That Mr.  
be elected for the current half-year. Accordingly, the Session  
elected Mr. one of their number, and *bona fide* an acting  
Elder of their Congregation, to represent them in the Presbytery of  
and Synod of during the current half-year.

The attention of the Session was called to the importance of the Elders on  
this occasion visiting their respective districts in good time, previously to  
the Communion, in order that the number of the intending Communicants

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XI. 1.Ordinary Forms  
and Styles.

Kirk-Session  
Minutes.

Induction of  
Minister.

Appointment of  
Communion.

Elders' Districts.

Election of Repre-  
sentative Elder.

Elders visiting  
after Vacancy.



may be as far as possible ascertained, after the long protracted vacancy, and that the roll may be carefully adjusted both before and after the Communion.

The Session find that Mr. \_\_\_\_\_, Ruling Elder, and Mr. \_\_\_\_\_, Deacon, have withdrawn from all meetings of Session and Deacons' Court for more than twelve months, without explanation. The Session, accordingly, find that they have both ceased to be members of the Deacons' Court, and that Mr. \_\_\_\_\_ has ceased to be a member of the Kirk-Session of the Congregation of \_\_\_\_\_.

The Session resolve that Public Worship shall commence on the Communion Sabbath, at \_\_\_\_\_ o'clock A.M., and on the Fast-day at \_\_\_\_\_ o'clock A.M.

Closed with prayer.

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XI. 1.  
—  
Ordinary Forms  
and Styles.  
—  
Elders and  
Deacons ceasing to  
be in Office.  
—  
Appointment of  
Hour of Worship.

(2.) Another Specimen Minute.

At \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 18 :  
The Kirk-Session \_\_\_\_\_ met, through  
personal citation by the Moderator, and was constituted,—Sederunt,  
the Rev. \_\_\_\_\_, Moderator; Messrs.  
and \_\_\_\_\_, Ruling Elders.

The Minute of last meeting was read and approved of.

The Moderator brought under the Session's notice the vacancy in the Church Officership, occasioned by the resignation of \_\_\_\_\_.

Vacancy in Church  
Officership.

The Session being cognizant of the election to the Beadleship by the Deacons' Court of Mr. \_\_\_\_\_, hereby appoint him to be Church Officer also.

Mr. \_\_\_\_\_ was called in and his appointment was intimated to him. He promised to discharge the duties faithfully and confidentially, and was thereupon admitted to the office.

The Moderator represented the importance of having a new election of Ruling Elders. The Session having taken into consideration the question as to having an addition made to the number of Elders, resolved to take steps with the view of accomplishing this end, and accordingly requested the Moderator to make an intimation on Sabbath next, and (should the Session desire it) on the two following Sabbath-days, at the close of Public Worship, to the effect that the election will take place in the following manner:—*[Then let the manner adopted by the Session be stated, whether by the giving in of lists, or by voting at the meeting, or otherwise].*

Election of Elders.

It was agreed that the number to be elected shall be \_\_\_\_\_, and that the Moderator shall intimate the number. It was also agreed that the Moderator should address the people on their duties in this matter, and take occasion to point out the qualifications of Elder.

The Session resolved to meet in the church on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, for the purpose *[either of opening lists, or, along with the Congregation, for an election otherwise].*

Thereafter the Session took into consideration the subject of \_\_\_\_\_

It was moved and seconded, That \_\_\_\_\_

Motion carried on  
Division,

It was also moved and seconded, That \_\_\_\_\_

After conversation it was agreed to take the vote. The votes were marked, and it appeared that \_\_\_\_\_ members had voted for the first Motion, and \_\_\_\_\_ for the second, so that the \_\_\_\_\_ motion was carried by a majority of \_\_\_\_\_. Thereupon the Kirk-Session, in terms of that Motion, resolve that \_\_\_\_\_

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XI. 1.Ordinary Forms  
and Styles.Simple Dissent  
entered.

From this judgment Mr. \_\_\_\_\_ entered his dissent, and Mr. \_\_\_\_\_ adhered to the dissent.  
Closed with prayer.

(3.) *Third Specimen Minute.*

At \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_ :  
The Kirk-Session \_\_\_\_\_ met, and was constituted,—  
Sederunt, the Rev. \_\_\_\_\_ Moderator;  
Messrs. \_\_\_\_\_ and \_\_\_\_\_, Ruling Elders.

The Minute of last meeting was read and approved of.

Reasons of Simple  
Dissent.

Mr. \_\_\_\_\_ gave in Reasons of Dissent from the judgment of the Session at last meeting on the subject of \_\_\_\_\_, signed by himself and Mr. \_\_\_\_\_. They were ordered to be kept *in reventis*.

Election of Elders.

The Moderator intimated that he had complied with the request of the Session recorded in the Minute now read. [Here let it be stated either that the lists were opened and read and the votes marked, etc., in presence of the Congregation (*or publicly or privately according to resolution*), or that the Session met with the Congregation and proceeded to an election, when motions were made, etc., and the following were elected (*either unanimously or by a majority, as the case may be*), in the following order, the person named first having the greatest number of votes.]

The Blessing having been pronounced and the Congregation [*or public meeting*] having been dismissed, the Session continued their meeting alone.

The Session being alone, proceeded to judge of the qualifications for the Eldership of the persons named. After deliberation, the Session find that the following persons have been elected by the Congregation and are duly qualified, viz,—

It was agreed that the Moderator should ascertain the willingness of the above named to accept office.

Certificate to  
Member of As-  
sembly.

It was reported by the Moderator that Mr. \_\_\_\_\_, a member of this Kirk-Session, had been elected by the Presbytery of \_\_\_\_\_ as one of their representatives to the General Assembly, and that he required a certificate from this Kirk-Session, in terms prescribed by the Act of Assembly, to be signed both by the Moderator and Clerk. The Session appoint a certificate to be signed by the Moderator and Clerk, and duly transmitted, in the following terms :—

“At \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_ :  
“Which day the Kirk-Session of the Free Church Congregation of \_\_\_\_\_ being met and constituted,—Sederunt, the Rev. \_\_\_\_\_, Moderator; and \_\_\_\_\_, Elders,—the said Session did, and hereby do, certify and declare, that \_\_\_\_\_, Ruling Elder, and member of said Session, is *bona fide* an acting Elder of their Congregation, and that he has signed the formula.

Moderator.  
Clerk.”

It was moved and seconded, That

It was also moved and seconded, That,

The Session resolve

From which judgment Mr. \_\_\_\_\_ dissented, in the name of himself and all who may adhere to him, and protested for leave to complain to the Presbytery of \_\_\_\_\_, promising to give in Reasons in due

Motion carried,  
and complained of.

time, and took instruments in the Clerk's hands and craved extracts, which were allowed.

The following members were appointed to defend the judgment of the Session at the bar of the Presbytery, viz.,—

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and Styles.

Closed with prayer.

(4.) *Fourth Specimen Minute.*

At the day of 18 :  
The Kirk-Session met,  
and was constituted,—Sederunt, the Rev. Moderator;  
Messrs. and , Ruling Elders.

The Minute of last meeting was read and approved of.

The Clerk reported that Reasons of Dissent and Complaint by Mr.

Reasons of Com-  
plaint.

and Mr. had been lodged with him in due time.

The Moderator reported that he had dealt with the persons elected and found qualified for the Eldership in their Congregation as to their acceptance of the office, and that the following persons had agreed to accept, viz.,—Mr.

The Session appoint the ordination of Messrs.

Appointment of  
Elders' Ordination

and the admission of Mr. , already ordained to the Eldership in another Congregation, to take place in presence of the Congregation, on Sabbath the , after Public Worship in the

, and they direct an edict to this effect to be served in common form on Sabbath, the day of ,

giving notice to the people that if any of them have any objections to state to the life or doctrine of any of the foresaid persons, they will have an opportunity of stating the same at a meeting of Session to be held for that purpose in on the day of

at o'clock, with certification that unless such objections be substantiated at said meeting, the ordination and admission will be carried out.

Closed with prayer.

(5.) *Form of Edict for Ordination and Admission of Elders to be read from the Pulpit.*

At the day of 18 :  
The Kirk-Session of the Free Church Congregation of Edict for Ordina-  
having appointed an election of Elders to take place on tion of Elders.  
the day of , and the Congrega-

tion, after due intimation, having made choice of Mr.

and Mr. , etc., and the Session having judged the aforesaid

duly qualified for the office, and the said Mr. , etc., having intimated their [or his]

acceptance of the office, the Kirk-Session did, on the

day of , appoint the ordination and admission to the office of the Eldership of the said Mr. [and,

if any persons or person chosen have been already ordained, the induction of the said Mr. ,] etc., to take place on Sabbath, the

day of . It is accordingly hereby intimated, that if any member of the Congregation have objections to state to the life or doctrine of the said Mr. etc., he will have an opportunity of doing

so at a meeting of Session to be held in on the day of .

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and Styles.Meeting to receive  
Objections to Life  
or Doctrine.Ordination and  
Admission of  
Elders.(6.) *Another Specimen Minute.*

At the day of 18 :  
The Kirk-Session of met and was constituted,—  
Sederunt, the Rev. , Moderator ; Messrs.  
and , Elders.

The Minute of last meeting was read and approved of.

The Moderator reported that he had made edictal intimation as to the ordination and admission of Elders according to the request of the Session. The Session called the Church Officer and instructed him to intimate at the Church door, that the Session had met to give an opportunity for the statement of objections in terms of the Edict. Thereafter, the Officer returned from the door and intimated that no objector had appeared. The Session, accordingly, resolve to proceed with the ordination and admission according to their last Minute. [N.B.—*If there should be any objections to life or doctrine brought forward, the Session must either find that they are not substantiated to the satisfaction of the Session, and resolve to proceed with the ordination and admission ; or that they are substantiated, and resolve to take the party or parties on discipline.*]

Closed with prayer.

(7.) *A Sixth Specimen Minute.*

At and within the Free Church ,  
the Kirk-Session of met with the Congregation, according  
to their Resolution of date , and Edictal Intimation  
made on Sabbath, the day of .

After sermon the Moderator made the following intimation :—"An election of persons to the office of the Eldership having taken place on the day of , and the persons now to be named having been found duly qualified, and having agreed to accept the office of the Eldership, and no objection to the life or doctrine of any of them having been offered (or substantiated) after edictal intimation that, in the absence of such objections substantiated, the ordination and admissions of these persons would be this day proceeded with, the Kirk-Session are prepared to ordain and admit Mr. and Mr. , and to admit to the same office Mr. , who has been previously ordained an Elder."

The Moderator called upon all those persons, when they all appeared and stood up. The Moderator put to Mr. and Mr. , etc. etc., the questions appointed to be put to Elders-elect before their admission to office, to which they all gave satisfactory answers. He also reminded Mr. that he had formerly answered these questions at his ordination as an Elder, and asked him whether he adhered to his former answers, to which question he replied in the affirmative. Thereafter, all the Elders-elect signed the Formula required by Act XII. Assembly 1846, in presence of the Congregation.

The Moderator then, in name of the Session, did admit Mr. , already an ordained Elder of the Free Church of Scotland, to the said office in this Congregation ; and thereafter, with prayer to God, he did solemnly set apart Mr. , Mr. , and Mr. , etc. etc., to the office of Eldership, and did admit them to the exercise of the same in this Congregation, and to all the rights and privileges belonging thereto. In token thereof, all the persons now admitted received the right hand of fellowship from the Elders and Deacons present. The Moderator addressed the newly admitted Elders and the Congregation regarding their respective duties.



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and Styles.*

his office as an Elder (or Deacon), and stated the result of conference. The Session, being satisfied that there is nothing affecting the character of Mr. \_\_\_\_\_ in the causes of his resignation, feel themselves compelled to accept of it with regret, appoint his name to be removed from the Session Roll, and intimation of the circumstance to be made to the Deacons' Court (or the Session find that the reasons for the tender of resignation are not satisfactory, and render it necessary for them to take Mr. \_\_\_\_\_ on discipline. They appoint Mr. \_\_\_\_\_, Mr. \_\_\_\_\_ and \_\_\_\_\_, to confer again with Mr. \_\_\_\_\_ upon the subject, intimating to him this finding.)

Closed with prayer.

(9.) *An Eighth Specimen Minute.*

At \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_ :  
The Minutes of previous meeting of dates \_\_\_\_\_ were read and approved of.

## Revision of Roll.

The Communion Roll was revised with reference to the recent Communion, and ordered to be attested by the Moderator and Clerk as now containing names, and to be transmitted to the Presbytery in time for their making the Returns which regulates the distribution of the Sustentation Fund.

Election of  
Deacons.

The Session having taken into consideration the importance of having an addition made to the number of Deacons (*here take in the Form as to Elders—Form 2, p. 287, mutatis mutandis.*)

Closed with prayer.

(10.) *Further Minutes, etc., as to Election and Admission of Deacons, etc., the same as in the case of Elders, mutatis mutandis, with those in the case of Elders.*Admission of  
Deacons.

The only exception is in Form 7, p. 290, where, instead of their signing the Formula required by Act XII. 1846, they must sign the Formula required by Act I. 1884; and in place of stating that the names were appointed to be added to the Roll, the Minute must be, "The Session instruct the Clerk to intimate the admission of Deacons, which has this day taken place, to the Clerk of the Deacons' Court, in order that he may communicate it to the Deacons' Court, with a view to their instructing him to add the names of the newly admitted Deacons to their roll of members."

(11.) *Specimen Minute in referring an ordinary case to the Presbytery.*Reference to  
Presbytery.

The Session, regarding the question involved in this matter as one of considerable difficulty, hereby refer the whole case to the Presbytery of \_\_\_\_\_ for advice, and, at the same time, intimate to the parties that they are hereby summoned *apud acta* to the bar of that Presbytery at their next ordinary meeting.

(12.) *Specimen Forms of Petitions, in which the Kirk-Session are specially interested.*Petition to Kirk-  
Session.*Petition to the Kirk-Session with reference to Congregational matters.*

To the Moderator and other Members of the Kirk-Session of \_\_\_\_\_,

The humble Petition of the undersigned sheweth,—

That, etc. etc.

Your Petitioners, therefore, ask you to take such steps as you can consistently with the laws of the Church for, etc. etc.

[Then follow signatures with designations, including Church Membership, etc.]



*Petition by the Kirk-Session or others to the Presbytery with reference to the conduct of the Minister.*

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Petition by Kirk-  
Session.

To the Moderator and Members of the Free Presbytery of

The humble Petition of the undersigned sheweth,—

That we are painfully constrained by a sense of duty to represent that the Rev. \_\_\_\_\_, our Minister, has acted in a manner recently which, in our view, calls for your notice and interposition, inasmuch as

1. The
2. Etc. etc.
3. Etc. etc.

It appears to us that we have no remedy, except in petitioning your Reverend body. We therefore ask you to take the matter into your consideration, and to make such inquiry as to your wisdom may seem meet, whether by presbyterial visitation or otherwise.

[Then follow signatures and designations, etc.]

*Petition against arbitrary action of the Kirk-Session.*

Petition against  
Session.

To the Moderator and other Members of the Free Presbytery of

\_\_\_\_\_, the humble Petition of the undersigned sheweth,—

That the Kirk-Session of \_\_\_\_\_ did, \_\_\_\_\_ and thereby deprived your Petitioner of the usual remedy by appeal. Your Petitioners, therefore, crave the interposition of your Reverend Court to rectify the injustice that has been done.

[Then follow signatures and designations.]

(13.) *Commission to Ruling Elder, entitling him to sit in the Presbytery and Synod.*

Commission to  
Elder to Synod  
and Presbytery.

This Commission should be a simple Extract of Minute (see p. 286, line 12 from bottom).

(For Form of Minute of Election of a representative Elder by a Session in a newly sanctioned charge according to Act I. 1875, see page 294.)

(14.) *Form of Certificate for a Ruling Elder returned as Commissioner to the General Assembly.*

At \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_ years; which day the Kirk-Session of the Free Church Congregation of \_\_\_\_\_ being met and constituted,—Sederunt, the Rev. \_\_\_\_\_, Moderator, and \_\_\_\_\_, Elders,—the said Session did, and hereby do, certify and declare, that (name and designation), Ruling Elder and

Certificate for  
Elder to General  
Assembly.

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Member of said Session, is *bonâ fide* an Acting Elder of their Congregation, and that he has signed the Formula.

Moderator.  
Clerk.

1. (15.) *Form of Minute of Election of a Representative Elder by a Session in a newly sanctioned charge according to Act I. Assembly 1875.*

Election of Elder At the day of 18  
in new Charge. the Kirk-Session of the recently sanctioned Free Church Charge  
of having met and been constituted :  
*Inter alia*,—The Kirk-Session, finding that the induction of their Minister, and the first constitution of their Kirk-Session have taken place more than two months after the last meeting of the Free Synod of , and that, consequently, according to Act I. Assembly 1875, they are entitled and called upon, within one month from the date of said induction and first constitution, to elect in due form a ruling elder, one of their number, to represent them in the Presbytery and Synod during the current half-year (or during the current year when the Synod meets only once a year) : The Session accordingly hereby elect Mr. , one of their number, and *bonâ fide* an acting elder of their congregation, to represent them in the Presbytery of and Synod of during the current half-year (or year).  
*N.B.* The Commission should just be an Extract of this Minute by the Clerk.

## 2. FORMS FOR THE DEACONS' COURT.

(1.) *Specimen Minute containing Variations from the Forms of Session Minutes.*

Deacons' Court At , the day of 18  
Minutes. The Deacons' Court met :  
Sederunt, Elders ;  
Deacons.

In the absence of the Moderator, Mr. G. was unanimously called to the chair. The meeting was then constituted with prayer.  
The Minutes of last meeting were read and approved of.

Admission of An Extract Minute of Kirk-Session was laid on the table, from  
Elders. which it appeared that Mr. and Mr. , etc., had  
been admitted as Elders of this Congregation on the day of .

Of Deacons. Another Extract Minute was read, by which it appeared that Mr.  
and Mr. , etc. etc., had been admitted as Deacons of their Congregation on the day of .

The Deacons' Court instruct the Clerk to add the names of these persons to their roll in due order.

Person Ceased to Another Extract Minute was read, showing that Mr. had ceased  
hold Office. to be an elder, and Mr. to be a Deacon of their Congregation.  
The Court instruct the Clerk to remove the names of these parties from the Roll.

Vacant Beadle- The Deacons' Court, taking into consideration the vacancy in the Beadle-  
ship. ship of this Congregation, and the following applications for the office, resolve to appoint, and hereby do appoint, Mr. to be the Beadle. They resolve that his salary shall be , and appoint the Clerk and Mr. to confer with him as to his duties, and to report.

The Court resolve to divide the Congregation anew into districts to be severally assigned to the Deacons, as follows,—District I., Mr T., etc.

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The Court instruct each of the Deacons to take charge of and hold himself responsible for the arrangements for the ingathering of the Sustentation Fund in his district, and they appoint Mr. to be Treasurer for that Fund, Mr. remaining Treasurer for the Local Funds, and Mr. for the Foreign Missions Fund.

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and Styles.

Deacons'  
Districts, etc.,  
Appointment of  
Treasurers.

The Deacons' Court, finding that, after deduction of sums requisite for the claims recognised as primary by the Act of Assembly, there remains a surplus in the Local Fund of £ , s. d., took into consideration the question how far it was reasonable to supplement (or add to the supplement to) the Minister's stipend, and resolved to grant him the sum of £ , s. d. out of the surplus.

Supplement to  
Minister.

The Deacons' Court resolved that a special collection shall be made on Sabbath, the day of , for the relief of poor members of the Congregation at this season.

Collection for  
Poor.

It was moved and seconded, That

It was also moved and seconded, That

The Motion was carried by a majority of to .  
From this judgment Mr. dissented for the following reasons, viz.,—  
1., etc., 2., etc., 3., etc. Mr. adhered to the Dissent.

(N.B.—When reasons are produced immediately along with the Dissent in any Church Court, they are made part of the Minute.)

Reasons of Dis-  
sent.

Closed with prayer.

## (2.) Form of Minute of Meeting with Congregation annually.

At , the day of 18 : Annual Meeting

The Deacons' Court met with the Congregation, and was constituted, the Moderator in the chair,—Sederunt, of Congregation.

The Clerk read the annual report, with a view to receiving any suggestions from the Congregation. One (or two or no) suggestion was made.

Closed with prayer.

## (3.) Specimen Petition against irregular action of the Deacons' Court.

To

The Moderator and other Members of the Free Presbytery of

Petition against  
Action of  
Deacons' Courts

The humble Petition of the undersigned sheweth,—

That the Deacons' Court of the Free Church Congregation of did, by a Minute of date , resolve as follows :—(Here take in.) Your Petitioners regard this Resolution as contrary to Act Assembly , and as ultra vires of the Deacons' Court. We therefore crave your interposition to rectify what we consider a violation of constitutional order.

[Then follow signatures and designations.]

## 3. FORMS FOR THE PRESBYTERY IN ORDINARY BUSINESS.

### (1.) Forms of Minutes of Presbytery as to the Election, Calling, Translation, and Induction of Ministers.

Minute resolving to Moderate in a Call.

Inter alia,—Compared Messrs. for the Kirk-Session, Messrs. Minutes of Pres-  
for the Deacons' Court, and Messrs. bytery, etc.  
gregation of , craving the Presbytery to appoint a day for Moderation of  
Call.

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moderating in a Call to a Minister to that charge. Parties having been heard and Mr. \_\_\_\_\_, *interim* Moderator of Kirk-Session, having reported that there was every prospect of harmony, the Presbytery unanimously resolved to meet in \_\_\_\_\_ Church, on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_ next, at two o'clock afternoon, to moderate in a Call for filling up the vacancy in that Congregation, and appointed Mr. \_\_\_\_\_ to preach in \_\_\_\_\_ Church on Sabbath next, \_\_\_\_\_ and serve an edict to that effect.

*Intimation by the Presbytery to a Congregation, appointing the  
Moderation of a Call (made from the Pulpit).*

Edict for Moderation of a Call.

In name and by appointment of the Free Presbytery of \_\_\_\_\_, I hereby intimate that, in consequence of an application from this Congregation, the said Presbytery agree to meet within this Church on Thursday, the \_\_\_\_\_ day of \_\_\_\_\_ next, at \_\_\_\_\_ o'clock in the \_\_\_\_\_, for the purpose of moderating in a Call for filling up the vacancy in this Congregation, [or, if the name be inserted, in a Call to Mr. \_\_\_\_\_ to be Minister of this Congregation], the Rev. \_\_\_\_\_ to preach and preside on the occasion.

*Certificate of Intimation having been made.*

\_\_\_\_\_ Church, the \_\_\_\_\_ day of \_\_\_\_\_  
The above intimation was duly made by me.  
A. W., *Witness*,  
R. S., *Witness*.

A. C., *Minister*.

*Forms of a Call and Concurrence therein.*

Forms of Call and Concurrence.

(1.) We, the undersigned Elders, Deacons, and Members of the Free Church Congregation at \_\_\_\_\_, desirous of promoting the glory of God and the good of the Church, being destitute of a fixed pastor, and being assured, by good information and our own experience, of the ministerial abilities, piety, literature and prudence, as also of the suitableness to our capacities of the gifts of you, Mr S. T., preacher of the Gospel, have agreed to invite, call, and entreat, like as we, by these presents, do heartily invite, call, and entreat you to undertake the office of Pastor among us, and the charge of our souls; and further, upon your accepting this our Call, promise you all dutiful respect, encouragement, and obedience in the Lord.

In witness whereof, we have subscribed these presents, this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_ years.

*(Here follow the Signatures.)*

(2.) We, the Elders, Deacons, and Members of the Free Church Congregation of \_\_\_\_\_, desirous of promoting the glory of God and the good of the Church, considering the importance of a Colleague being now appointed to the Rev. A. B., our present Pastor, in his ministerial charge; and being satisfied, by good information and our own experience, etc. *(The rest ut supra.)*

*Concurrence in Call by Adherents.*

We, the Subscribers, ordinary hearers in the Free Church Congregation of \_\_\_\_\_, hereby declare our hearty concurrence in the Call addressed by the Members of the said Congregation to Mr S. T. to be their Pastor.

*(Here follow the Signatures.)*

*Minute of Meeting to Moderate in a Call to a Minister or Probationer of the  
Free Church of Scotland.*

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At Free \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ Eighteen hundred and \_\_\_\_\_  
\_\_\_\_\_, the Free Presbytery of \_\_\_\_\_ met and was constituted by  
prayer. Sederunt—

The Minute calling this meeting was read.\* The Edict was returned  
attested as having been duly served.

The Moderator went to the pulpit, and preached from \_\_\_\_\_.  
Public Worship being ended, the Moderator intimated that the Presbytery  
would now proceed to moderate in a Call for filling up the vacancy in this  
Congregation.

The Clerk read the form of Call. Whereupon it was proposed, and unani-  
mously agreed to, that the name of Mr. \_\_\_\_\_, Minister at \_\_\_\_\_,  
be inserted in the Call. The name of \_\_\_\_\_ was then inserted in  
the Call, which was subscribed by \_\_\_\_\_ communicants, and by  
\_\_\_\_\_ adherents.

It was moved, seconded, and unanimously agreed to, that the Presbytery  
sustain this Call. The Presbytery then appointed† the following to be  
their Commissioners to prosecute the translation of \_\_\_\_\_ before the  
Presbytery of \_\_\_\_\_, and any other competent judicatory of the  
Church, namely, the Moderator, etc.

The Call was left in the hands of the Kirk-Session, to receive additional  
subscriptions; all such subscriptions to be attested by two members of the  
Kirk-Session.

The Presbytery then adjourned to meet in the Presbytery Hall on  
day of \_\_\_\_\_ month. Whereof public intimation having been made, this  
sederunt was closed with prayer.‡

*Minute allowing the Translation to proceed.*

Presbytery House, the \_\_\_\_\_ day of \_\_\_\_\_.—The Free Presbytery Translation  
of \_\_\_\_\_ met and was constituted.  
*Inter alia*,—The Presbytery took up the Call to \_\_\_\_\_ from Free  
\_\_\_\_\_. Compeared \_\_\_\_\_ as Commissioners from the Free  
Presbytery of \_\_\_\_\_, Messrs. \_\_\_\_\_ as Commissioners from  
the Kirk-Session of \_\_\_\_\_; \_\_\_\_\_ as Commissioners from the Deacons'  
Court, and \_\_\_\_\_ as Commissioners from the Congregation: and as Commis-  
sioners from the Kirk-Session of \_\_\_\_\_, and from the Congregation \_\_\_\_\_.  
Mr. \_\_\_\_\_ appeared for himself. The edict was returned duly served and  
indorsed. Reasons for and against the translation were read. The Com-  
missioners on both sides having been heard, Mr. \_\_\_\_\_ was called upon to  
state his mind in regard to the Call, when he declared that he could not  
take upon himself the responsibility of declining it. Parties were with-  
drawn. The Presbytery now engaged in prayer, Mr. \_\_\_\_\_ leading the  
devotions.

After deliberation, it was moved by \_\_\_\_\_, seconded by \_\_\_\_\_,  
and unanimously agreed to, that \_\_\_\_\_ translation take place, and that

\* The Minute of the Sustentation Fund Committee intimating that no objections on their  
part would be offered, it is taken for granted, has been given in at an intermediate meeting.  
The Presbytery may, if necessary, appoint a Committee to act in their name as to the filling  
up of the Schedule, and transmitting it to the Sustentation Committee.

† If the call is to a Probationer, it is put into his hands for his acceptance.

‡ For Form of Minute in terms of Act 11. 1874, see page 300.

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the Call be put into his hands for his acceptance : And this having been done, and he having declared his acceptance of the same, the Presbytery resolved to loose him from his present charge, and translate him to \_\_\_\_\_, declaring at the same time that his pastoral relation to \_\_\_\_\_ Congregation shall subsist till he be actually admitted to the charge aforesaid ; and they enjoin him to wait upon the Presbytery of \_\_\_\_\_ as to the time of his admission, and they request that Reverend Court to give them notice of his Induction when it takes place. Parties were recalled, and this judgment intimated, in which they all acquiesced. \_\_\_\_\_ for the Presbytery of \_\_\_\_\_, and \_\_\_\_\_ for the Kirk-Session of Free \_\_\_\_\_, took instruments in the Clerk's hands, and craved extracts, which were granted.

*Minute resolving to proceed to Induction.*

Induction.

At \_\_\_\_\_, and within the Presbytery Hall, the \_\_\_\_\_ the Free Presbytery met and was duly constituted by \_\_\_\_\_,—Sederunt,

*Inter alia*,—There was produced and read, Extract Minute of the Free Presbytery of \_\_\_\_\_ in the case of the translation of \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_. The tenor whereof follows:—

The Presbytery resolved to meet in Free \_\_\_\_\_ on Thursday, the sixth of \_\_\_\_\_ next, at \_\_\_\_\_ o'clock P.M., for the induction of Mr. \_\_\_\_\_ as Minister of that Congregation, Mr. \_\_\_\_\_ to preach and preside ; and appointed an edict to this effect to be served in that Church on Sabbath the \_\_\_\_\_ by Mr. \_\_\_\_\_.

*Edict previous to Ordination or Induction.*Edict for  
Ordination or  
Induction.

The Free Church Presbytery of \_\_\_\_\_, having resolved to proceed to the Ordination (or Induction) of Mr S. T., who has been duly called to be Minister of this Congregation (and, *in the case of a Probationer*, whose trials have been sustained) did, and hereby do, issue their edict, giving notice to all persons concerned, and especially to members of this Congregation, that if any of them have anything to object to the life or doctrine of the said Mr. S. T., they must substantiate the objections to the satisfaction of the Presbytery at a meeting to be held in \_\_\_\_\_, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ o'clock, with certification that if no one offer any relevant objection, or unless relevant objections be proven *instantly*, the Presbytery will then forthwith proceed to the ordination and induction (or, *in the case of a Minister*, induction) of the said Mr. S. T. to the office of the holy ministry, and admit him to the pastoral charge of this Congregation.

Attested by \_\_\_\_\_ M. N., *Presby. Clk.*

*Certificate of Edict being served.*

Church, the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_

The above Edict was this day duly served by me, in the face of the Congregation.

A. W., *Witness.*

A. C., *Minister.*

R. S., *Witness.*

*Minute of Induction.*

Induction.

At Free \_\_\_\_\_, the \_\_\_\_\_, the Free Presbytery of \_\_\_\_\_ met, and was constituted with prayer ;—Sederunt,



The Minute calling this meeting was read. The Edict was returned duly served. The Officer of Court was instructed to go to the most patent door of the Church, and make proclamation three times, that if any person or persons had any objections to the life and doctrine of Mr. \_\_\_\_\_, Minister of the Gospel, they might now repair to the Presbytery, presently met, and substantiate the same. The Officer reported that he had made proclamation, as instructed, and that no one had appeared to object.

The Moderator then went to the pulpit and preached from \_\_\_\_\_ . Public Worship being ended, the Moderator gave a brief narrative of the proceedings in the Call to \_\_\_\_\_ , and addressed to him the questions appointed to be put to Ministers on their induction and ordination to a pastoral charge, and he having returned satisfactory answers to the same, and having signed the Formula in presence of the Congregation, the Moderator, in name of the Presbytery, did then induct the said Mr. \_\_\_\_\_ as Minister to the pastoral charge of \_\_\_\_\_ Congregation, and the brethren gave him the right hand of fellowship. Thereafter Mr. \_\_\_\_\_ was suitably addressed by the Moderator, who also, in appropriate terms, exhorted the Congregation. Public Worship being ended, the meeting was closed with prayer.\*

*Minute when the Presbytery decline to proceed, because of Want of Harmony.*

*Inter alia*,—Compeared Messrs. \_\_\_\_\_ Commissioners from the \_\_\_\_\_ Congregation of \_\_\_\_\_ , craving the Presbytery to appoint a day for Moderating in a Call to a Minister for that Congregation. Compeared also Messrs. \_\_\_\_\_ , members of said Congregation, presenting a Memorial signed by thirty-six members of the Congregation craving delay in said matter. The Memorial was read by the Clerk. Parties were heard and removed.

It was moved, seconded, and unanimously agreed to that the Presbytery, *in hoc statu*, decline to proceed to moderate in a Call to a Minister for \_\_\_\_\_ , and appoint a Committee to confer with the Congregation with the view of restoring harmony among them, and to report. The Committee to consist of \_\_\_\_\_ .

*Minute referring Case to General Assembly.*

*Inter alia*,—Compeared Messrs. \_\_\_\_\_ , representing the majority of the Congregation of \_\_\_\_\_ , also Messrs. \_\_\_\_\_ , representing the minority of said Congregation. Reference to Assembly.

Dr. \_\_\_\_\_ , interim Moderator of the Kirk-Session and Congregation, made a statement. Parties were heard and removed,—Whereupon it was moved and seconded that the Presbytery, finding that the want of harmony in the Congregation of \_\_\_\_\_ still continues, resolve to refer, and hereby do refer, the case to the General Assembly, in terms of Act IV. 1859.

Which motion was unanimously adopted.

Parties were called in and judgment intimated.

*Form of Minute regarding a Call to a Minister of one of the Churches recognised by the Mutual Eligibility Act.*

At Free \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ Eighteen hundred and \_\_\_\_\_ , the Free Presbytery of \_\_\_\_\_ met and was constituted with prayer. Sederunt,—

\* For Form of Minute in terms of Act II. 1874, see page 300.

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and Styles.*Call under  
Mutual Eligi-  
bility Act.

The Minute calling this meeting was read.\* The Edict was returned attested as having been duly served.

The Moderator went to the pulpit, and preached from Public Worship being ended, the Moderator intimated that the Presbytery would now proceed to moderate in a Call for filling up the vacancy in this Congregation.

The Clerk read the form of Call. Whereupon it was proposed, and unanimously agreed to, that the name of Mr. \_\_\_\_\_, Minister of the United Presbyterian Church at \_\_\_\_\_, be inserted in the Call. The name of \_\_\_\_\_ was then inserted in the Call, which was subscribed by \_\_\_\_\_ communicants, and by \_\_\_\_\_ adherents.

It was moved, seconded, and unanimously agreed to, that the Presbytery find this call regular and sufficient so far as the Congregation is concerned, and adjourn to meet on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_. The Presbytery further instruct their Clerk to transmit to Mr. \_\_\_\_\_ an extract of this finding, together with a copy of the Act XII., 1846, as amended in 1874, including the preamble as well as the enacting part, as also a copy of Act XI., 1874, in full, and a copy of Act IV., Assembly 1873, and to inform him that if no communication beyond a simple acknowledgment of their receipt be sent, the Presbytery will then assume that he has no difficulty as regards these documents, and will proceed according to the laws of the Church.

The Call was left in the hands of the Kirk-Session, to receive additional subscriptions; all such subscriptions to be attested by two members of the Kirk-Session.

The Presbytery then adjourned to meet in the Presbytery Hall on \_\_\_\_\_ day of \_\_\_\_\_ month. Whereof public intimation having been made, this sederunt was closed with prayer.

*Minute regarding the same at the Second Meeting.*

The Presbytery resumed consideration of the Call from the Congregation of \_\_\_\_\_ to Mr. \_\_\_\_\_, Minister of \_\_\_\_\_. The Clerk reported that he had sent the requisite documents to Mr. \_\_\_\_\_, and that he had simply acknowledged their receipt. The Presbytery now find themselves prepared to take the usual steps toward his settlement, and appointed the following to be their Commissioners to prosecute the translation of \_\_\_\_\_, before the United Presbyterian Presbytery of \_\_\_\_\_, or any other competent judicatory of that Church.

*Minute of Induction in terms of Act II., 1874.*Induction in  
above case.

At Free \_\_\_\_\_, the \_\_\_\_\_, the Free Presbytery of \_\_\_\_\_ met, and was constituted with prayer;—Sederunt.

The Minute calling this meeting was read. The Edict was returned duly served. The Officer of Court was instructed to go to the most patent door of the Church, and make proclamation three times, that if any person or persons had any objections to the life and doctrine of Mr. \_\_\_\_\_, Minister of the Gospel, they might now repair to the Presbytery, presently met, and substantiate the same. The Officer reported that he had made proclamation, as instructed, and that no one had appeared to object. (In the case of the person called being a Minister of one of the other Churches referred to in Act III., 1873, the following clause must be here added to the Minute :—

\* The Minute of the Sustentation Fund Committee intimating that no objections on their part would be offered, it is taken for granted, has been given in at an intermediate meeting. The Presbytery may, if necessary, appoint a Committee to act in their name as to the filling up of the Schedule, and transmitting it to the Sustentation Committee.

The Presbytery record that, in this case, the provisions of Act II., 1874, have been duly complied with).

The Moderator then went to the pulpit and preached from Public worship being ended, the Moderator gave a brief narrative of the proceedings in the Call to , and addressed to him the questions appointed to be put to Ministers on their induction and ordination to a pastoral charge, and he having returned satisfactory answers to the same, and having signed the Formula in presence of the Congregation, the Moderator did, after special prayer, ordain and set apart to the office of the Holy Ministry, and to the charge of this Congregation, Mr. (or, in the case of a previously ordained Minister, "did admit and set apart to the pastoral charge of this Congregation, Mr. ,," omitting all the other words). They afterwards gave to him the right hand of fellowship. Thereafter Mr.

was suitably addressed by the Moderator, who also, in appropriate terms, exhorted the Congregation. Public worship being ended, the name of Mr. was added to the Roll, and the meeting was closed with prayer.

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(2.) Minutes as to Overtures, and Returns to Overtures.

Overtures and  
Returns.

*Minute of an Overture transmitted by a Presbytery. This must go in the form of an Extract, as follows:—*

At the day of in the year 18 : Overture from  
Which day the Presbytery of E being met and duly con- Presbytery.  
stituted :  
*Inter alia,—*

The Presbytery agreed to transmit the following overture to the ensuing General Assembly :—It is overtured by the Free Presbytery of to the ensuing General Assembly of the Free Church of Scotland, that they, etc. etc. etc.; or that they do otherwise for this object what to their wisdom may seem best.

Extracted from the Records of the Presbytery of E by  
A. B., Presbytery Clerk.

*Minute of a Return to an Overture from the General Assembly under the Barrier Act.*

*This must also be sent as an Extract, each Return on a Separate sheet of paper, as follows:—*

At the day of in the year 18 : Return under  
Which day the Presbytery of E being met and duly con- Barrier Act.  
stituted :  
*Inter alia,—*

The Presbytery took into consideration the Overture transmitted by the last General Assembly in the following terms :—(*Here take them in*) ; and the Presbytery hereby approve simpliciter of the same (or the Presbytery disapprove of the same).

Extracted from the Records of the Presbytery of E by  
A. B., Presbytery Clerk.

*Minute of a Return to a Remit from the Assembly not under the Barrier Act.*

*This should come also in the form of an Extract, e.g.,—*

At the day of in the year 18 : Return not unde-  
Which day the Presbytery of E being met and duly con- Barrier Act.  
stituted :

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*Inter alia,—*

The Presbytery took into consideration the Remit of last General Assembly on the subject of \_\_\_\_\_, and the Presbytery find that, etc. etc., (whatever their opinion may be, and however qualified).

Extracted, etc., by

*Presbytery Clerk.*

(3.) *Minutes for Representation in the General Assembly.*

*Minutes of Presbytery, forming Commission to Representatives in  
General Assembly.*

Commission for  
Representatives  
to Assembly.

At the day of 18 years :—The which day the Free Church Presbytery of \_\_\_\_\_ being convened betwixt the hours of eleven o'clock in the forenoon and eight o'clock in the evening, in order to elect their representatives to the ensuing Assembly, pursuant to a Resolution entered in their Minutes on the \_\_\_\_\_ day of \_\_\_\_\_ One thousand eight hundred and \_\_\_\_\_, did, and hereby do, nominate and appoint \_\_\_\_\_, Minister at \_\_\_\_\_, and \_\_\_\_\_, Minister at \_\_\_\_\_, and \_\_\_\_\_, Minister at \_\_\_\_\_, with \_\_\_\_\_, Ruling Elders, their Commissioners to the next General Assembly of the Free Church of Scotland, indicted to meet at Edinburgh the day of May next to come, or when and where it shall happen to sit, willing them to repair thereto, and to attend all the diets of the same, and there to consult, vote, and determine in all matters that come before them, to the glory of God and the good of His Church, according to the Word of God, the Confession of Faith, and agreeable to the constitution of this Church, as they will be answerable; and that they report their diligence therein at their return therefrom. And the said Presbytery do hereby testify and declare, That all the Ministers above named have signed the Formula. And further, That the said Elders are of unblemished character, circumspect in their walk, regular in giving attendance on the ordinances of Divine institution, and behave in other respects agreeable to their office. All which the Presbytery have hereby attested on proper information.

Attested by

*Moderator,  
Clerk.*

*After-Election of a Minister.*

After-Election.

At the day of 18 years :—The which day the Free Church Presbytery of \_\_\_\_\_, being convened betwixt the hours of eleven o'clock in the forenoon and eight o'clock in the evening, and\* \_\_\_\_\_, did, and hereby do, nominate and appoint \_\_\_\_\_ in \_\_\_\_\_ place, \_\_\_\_\_ their Commissioner to the next General Assembly of the Free Church of Scotland; and do hereby testify and declare, that \_\_\_\_\_ signed the Formula; which the Presbytery hereby attest upon proper information.

Attested by

*Moderator,  
Clerk.*

\* Here narrate the occasion of the new election.

After-Election of an Elder.

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At the day of 18 years:—The which day the  
Free Church Presbytery of being convened betwixt the  
hours of eleven o'clock in the forenoon and eight o'clock in the evening,  
and\* did, and hereby do, nominate and appoint  
in place, their Commissioner to the next General  
Assembly of the Free Church of Scotland; and do hereby testify and  
declare, that he is in all respects qualified in the same manner as the  
Commissioner in whose room he is chosen, which the Presbytery hereby  
attest upon proper information.

Attested by

Moderator.  
Clerk.

(4.) Specimen Minute of Ordinary Meeting.

At the day of 18 : Ordinary  
The Free Church Presbytery of met, and was constituted Meeting.  
with devotional exercises.—Sederunt, the Rev. , Moderator,  
Drs. , and Messrs. ,  
Ministers; with Messrs. , Ruling Elders. Minutes.  
The Minutes of the last Ordinary meeting of date ,  
and of the *in hunc effectum* meeting of date , and of  
the *pro re nata* meeting of date , were read and  
approved of.

Commissions to Ruling Elders to represent them in the Presbytery were  
read from the Sessions of and were sustained.  
The names were added to the roll.

This being the first meeting of Presbytery after the meeting of the Election of  
Provincial Synod of , the Presbytery proceeded to Moderator.  
elect a Moderator for the current half-year, when Mr. ,  
Minister at , was unanimously elected, and took the  
Chair accordingly.

A deputation appeared at the bar from the Kirk-Session, the Deacons' Deputation.  
Court, and Congregation of , viz.,—from the Kirk-Session,  
Messrs. ; from the Deacons' Court, Messrs.  
; and from the Congregation,  
Messrs.

Minutes were read from the from which it appeared that the Colleague and  
parties presented a unanimous application for the appointment of a Colleague Successor.  
and Successor, to the Rev. , their Minister. A  
medical certificate was also produced to the effect that the health of Mr.  
was much impaired, and that he was unable to  
discharge the full duties of the charge. (Or, It also appeared that the  
application was based not on failing health, but on peculiar circumstances,  
and on the importance of preserving their Pastor's strength at his period of  
life.)

Mr. and Mr. were heard for  
the Session, Mr. was heard for the Deacons' Court,  
and Mr. for the Congregation.

Parties were removed. It was moved, seconded, and unanimously agreed  
to,—

That the Presbytery, looking at all the circumstances, approve of the  
application, and agree to submit it to the Commission at its meeting in  
March, and to the General Assembly.

\* Here narrate the occasion of the new election.

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and Styles.Appeal, etc.,  
from Kirk-  
Session.

Parties were called in, and this judgment was intimated.

In name of the parties at the bar, Mr. \_\_\_\_\_ acquiesced,  
took instruments in the Clerk's hands, and craved extracts, which were  
allowed.

The Presbytery took up a case of Appeal and Dissent and Complaint from  
the Kirk-Session of \_\_\_\_\_, against a judgment of that  
Session of date \_\_\_\_\_, by which the Session  
found

The following documents were laid on the table, viz.,—The judgment of  
the Session with corresponding Minutes were read, and parties were called,  
when there appeared for the Appellants Messrs. \_\_\_\_\_;  
for the Dissentient and Complainer, Mr. \_\_\_\_\_; and for  
the Kirk-Session, Mr. \_\_\_\_\_ and Mr. \_\_\_\_\_. The Reasons  
of Appeal and other papers were read.

Mr. \_\_\_\_\_ was heard in support of the Appeal, Mr.  
\_\_\_\_\_ in support of the Complaint, and Mr. \_\_\_\_\_ in support of the  
Judgment. Mr. \_\_\_\_\_ was heard in reply.

Parties were removed. It was moved, seconded, and unanimously agreed  
to,—

That the Presbytery dismiss the Complaint and Appeal, and affirm the  
Judgment of the Kirk-Session. (*Or*, That the Presbytery sustain the Com-  
plaint and Appeal, and reverse the Judgment of the Session, and instruct,  
etc.)

Parties were called in and this Judgment intimated, when Mr.  
\_\_\_\_\_ acquiesced in name of \_\_\_\_\_, took instruments, etc. Against  
the same Judgment Mr. \_\_\_\_\_, in name of \_\_\_\_\_,  
protested, and appealed to the Synod of \_\_\_\_\_, promising to  
lodge Reasons of Appeal in due time, took instruments, etc.

Case of Reference  
from Session.

The Presbytery took up a case of Reference for advice from the Kirk-  
Session of \_\_\_\_\_.

The Minute of Session making the Reference was read, with corresponding  
documents. There appeared in support of the Reference the Rev. Mr. \_\_\_\_\_  
and Mr. \_\_\_\_\_, who were heard in support of it.

The Presbytery unanimously sustain the Reference.

Thereafter, on the merits of the case, parties were called, when there  
appeared J. T., maintaining that, etc. etc., and G. D. representing that, etc.  
etc. Parties were heard, and removed.

The Presbytery find that \_\_\_\_\_, and *quoad ultra* remit  
to the Kirk-Session to deal with the matter according to the rules of the  
Church.

The Presbytery adjourn to meet *in hunc effectum* in \_\_\_\_\_, on  
the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ o'clock; and also in this place  
on \_\_\_\_\_, for ordinary business.

Closed with prayer.

(5.) *Specimen Minutes of In hunc effectum and Pro rê natâ Meetings and  
Meetings by appointment of Superior Court.*

*Minute of In hunc effectum Meeting.*

In hunc effectum  
and Pro rê natâ  
Meetings.

At, etc.

The Presbytery of \_\_\_\_\_ met this day *in hunc effectum*, and was  
constituted,—Sederunt, etc.

The part of the Minute of last Ordinary Meeting referring to this day's  
proceedings having been read, the Presbytery (*here follows the Minute of the  
special business which can alone be transacted*).

Closed with prayer.



*Minute of Pro ré natâ Meeting.*

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At, etc.

The Free Church Presbytery of \_\_\_\_\_ met this day *pro ré natâ*,  
and was constituted,—Sederunt, etc.

The circular addressed by the Moderator to the members was read, the  
tenor whereof follows:—(*Here take it in*). It was moved, seconded, and  
agreed to,

That the Presbytery approve of the conduct of the Moderator in calling  
the meeting.

(*Here follows the Minute as to the special business.*)

Closed with prayer.

*Meeting by appointment of Superior Court.*

At, etc.

The Presbytery, etc. etc., met by special appointment and authority of  
(the General Assembly or the Provincial Synod of \_\_\_\_\_), and  
was constituted, etc. etc.

Closed with prayer.

ACT VII. 1866.—ACT ANENT A QUORUM OF PRESBYTERY.

The General Assembly appoint the following to be the title and form of \_\_\_\_\_ Quorum of  
Minute in the circumstances referred to in Act II., Assembly 1865, viz.:—Presbytery.

“*Minute of Meeting of two Ministers and one or more Ruling Elders, having  
valid Commissions which they are prepared to produce.*”

“At \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_—  
Which day and place there convened Mr. \_\_\_\_\_, minister at  
\_\_\_\_\_, and Mr. \_\_\_\_\_, minister at \_\_\_\_\_, members of  
the Free Presbytery of \_\_\_\_\_, with the view of constituting a  
meeting of the said Presbytery, in accordance with their minute of adjourn-  
ment of date \_\_\_\_\_. There convened also along with these  
ministers, Mr. \_\_\_\_\_ and Mr. \_\_\_\_\_, ruling elders,  
and Mr. \_\_\_\_\_, Moderator of the Presbytery (or Mr. \_\_\_\_\_  
in the absence of the Moderator), having been called to the chair, the  
meeting was opened with devotional exercises.

“Thereafter, the elders present produced Commissions from the Kirk-  
Session of \_\_\_\_\_ and \_\_\_\_\_, which, having been examined, were  
found correct. The ministers and elders present find accordingly, that the  
Free Presbytery of \_\_\_\_\_ has now been duly constituted in terms  
of adjournment, with the following sederunt, viz.:—

“The minutes of last sederunt were then read and approved of.”

4. FORMS FOR PROVINCIAL SYNOD IN ORDINARY BUSINESS.

(1.) The statements in the text are sufficient to guide Synod Clerks, so far Synod.  
as fixed rules are concerned. And, as the arrangements vary in the practice  
of different Synods, it is not thought expedient to give specimen Minutes  
which may not apply to all the Synods.

(2.) *A Specimen Minute is here given as to the appointment of Corresponding  
Members, which has general application.*

At \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_ years:—The Free  
Synod of \_\_\_\_\_ being met and constituted, *inter alia*, did,  
and hereby do, nominate and appoint \_\_\_\_\_,  
*bona fide* acting Elders within their bounds, their Commissioners to corre-  
spond with the Free Synod of \_\_\_\_\_ at its ensuing meeting;

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willing them to repair timeously thereto, to attend all the diets of the same, and there to sit, vote, and determine in all matters that may come before them, to the glory of God and the good of His Church, according to the Word of God, the Confession of Faith, and the other Standards of this Church, as they shall be answerable: and requiring them to report their diligence herein to this Synod at its next meeting.

This Commission in favour of the aforesaid Minister and Elder is by authority of the Free Synod of \_\_\_\_\_, executed and subscribed by \_\_\_\_\_

Cl. Syn.

## 2. Forms and Styles in Cases of Discipline.

### 1. SPECIMEN MINUTES FOR THE KIRK-SESSION IN ORDINARY DISCIPLINE.

Kirk-Session.  
Charge of Fornication.

(1.) In the case of a woman against whom a scandal has broken out, and who has been ordered by the Session to be summoned to appear before them to answer to a charge of fornication.

(Place and Date.)

The Session met, etc. It was reported by the Clerk, that, agreeably to the directions of the Session, A. B. had been duly summoned to appear before them this day; and the said A. B. having been called, appeared, and on the question being put whether she had been guilty of the crime of which she was accused, answered that she had. Being solemnly exhorted by the Moderator to speak the truth, and further interrogated, she declared that C. D., an unmarried man, belonging to this Congregation, had been guilty with her, and was the father of her child. The Session order the said C. D. to be summoned to appear before them the \_\_\_\_\_ day of \_\_\_\_\_, to which meeting the woman was cited *apud acta*. After a suitable admonition she was dismissed for the present.

(2.) It very commonly happens that a woman comes voluntarily forward to make confession, in which case the minute may run thus:—

Voluntarily compeared A. B., residing at \_\_\_\_\_, in this parish, confessing that she had been guilty of the sin of fornication. Being solemnly exhorted, etc., *ut supra*.

(3.) In the case in which the man accused by the woman belongs to a different Congregation, his particular residence must be stated, and the conclusion of the Minute may be in these terms:—

The Session instruct their Clerk to write to the Kirk-Session of \_\_\_\_\_ informing them of the accusation made against the said C. D., and requesting them to cause him to be summoned to appear here on the \_\_\_\_\_ day of \_\_\_\_\_, that he may be confronted with \_\_\_\_\_.\* To this meeting the woman was cited *apud acta*, and, after a suitable exhortation, she was dismissed for the present.

(4.) Minute of a meeting at which the man is summoned to appear.

Compeared A. B., agreeably to citation at last meeting, and, adhering to her former statements. C. D., having been duly summoned, was called and appeared. The former Minute having been read over to him, he was asked whether he had been guilty with A. B., and was

\* When the place of the man's residence is very distant, it is common to request the Kirk-Session of his Congregation to call him before them, and to receive his declaration.

The case may also occur of a confession by a woman when the man has disappeared and cannot be found, it being doubtful whether he be alive. In such a case, after the exhaustion of reasonable inquiries, the woman's confession may be acted on.

the father of her child. He acknowledged guilt, whereupon both parties, having received a serious admonition, were dismissed for the present.

(5.) If the case be one of adultery, the man, or woman, or both, having been married persons, then the Minute, after stating the acknowledgment of guilt on the part of the man accused, and the admonition of the parties by the Moderator, may run as follows:—

The Session, considering that this is a case of adultery, order their Clerk to transmit extracts to the next meeting of Presbytery, that their advice may be obtained.

The Minute may run in similar terms in the case of a trilapse in fornication, or in any other case in which it is also necessary to obtain the Presbytery's leave to proceed.

(6.) In the event of a denial on the part of the man, the Minute may run thus:—

The question was put to him whether he had been guilty, etc. Whereupon he answered that he was not the father of A. B.'s child, and never had been guilty with her. A. B. was then asked whether she could adduce any evidence of the truth of the charge which she had brought against C. D. She answered that she could, and requested that the following witnesses might be summoned, viz., E. F. and G. (*mention residence*). C. D. also requested that L. M. and N. might be summoned as witnesses in his defence. The Session instruct their Clerk to cause the said persons to be cited to appear before them as witnesses in this case, on the                      day of                      next, to which meeting the parties were summoned *apud acta*.

(7.) Form of Minute of meeting, at which the Session proceed to probation.

Compeared A. B. and C. D., according to citation, both adhering to their former statements. The Clerk having reported that all the witnesses in this case had been duly summoned, the Session agreed to proceed with the proof.

E. F. being called, compeared, and having been solemnly sworn, purged of malice and partial counsel, deponed that, etc. (And so on with the other witnesses.)

After the examination of whom, the deliverance of the Session on the evidence must be recorded.

(8.) Supposing that the guilt of the man is not clearly established, but that, in consequence of strong presumption against him, he may express a desire to take the Oath of Purgation,\* the Minute may run as follows:—

C. D. still persisting in his declaration of innocence, expressed a desire to have the Oath of Purgation administered to him; whereupon the Session agreed to take the advice of the Reverend the Presbytery of                      , and ordered the Clerk to transmit extracts.

(9.) Minute, after the Presbytery have allowed the Oath of Purgation—

The Presbytery having granted leave to the Session to administer the Oath of Purgation to C. D., charged by A. B. with the crime of                      , and C. D. being now present, and having expressed the same desire that this oath should be administered to him, he took it accordingly in presence of the Session; whereupon the said C. D. was declared free from scandal, and restored to the privileges of the Church.

If the Presbytery determine that the oath shall be taken before the Congregation, the Minute must be varied accordingly.

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\* See page 270.

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(10.) Supposing that guilt is not proved, that the Oath of Purgation is not offered to be taken, or that it is not seen for edification to administer it, then the Minute may run thus:—

The Session, on consideration of the evidence adduced, do not find the charge against C. D. to be established; and they therefore delay this case until God in His providence shall give further light.

(11.) Supposing a case to be concluded in so far as respects the truth of the charge made by the woman, either by the confession of the man, or the production of sufficient evidence against him; and supposing that one or both parties come forward craving absolution and restoration to Church privileges which the Session agree to grant, then the following may be the Minute:—

Compeared A. B. and C. D., last mentioned in Minute of

as having been guilty of the crime of fornication (or adultery), craving absolution from scandal, and restoration to the privileges of the Church; and the said A. B. and C. D. having expressed their deep sorrow for the sin of which they had been guilty, and their resolution that henceforth, through Divine grace, they will walk in newness of life, and endeavour to adorn the doctrine of God their Saviour, the Moderator, after a serious rebuke and solemn admonition, and after prayer, did, in name of the Session, absolve them from the scandal of their sin, and restore them to the privileges of the Church.

(12.) If the man accused do not belong to the Church and decline to appear, after all means for inducing him to do so have been exhausted, the Minute may be as follows:—

The Session, having exhausted all means without success to induce C. D. to appear in answer to the charge brought by A. B. against him, agree to accept of her confession as regards her own guilt.

(13.) In cases of antenuptial fornication the Minute may be as follows:—

Compeared A. B. and C. D., confessing that they had been guilty of the sin of antenuptial fornication, and having expressed their penitence, the Moderator, etc.

The above specimens refer to adultery or fornication. It is considered unnecessary to give forms of Minutes for all the sins of which a Session ought to take cognizance.

(14.) When a person incurs suspension from Church privileges (lesser excommunication), the same may be thus recorded:—

In consideration, etc., the Session did, and hereby do, suspend the said C. D. from the privileges of the Church.

(15.) In the case of an Elder or Deacon special Minutes are required.

*Specimen Minutes when a fama has arisen or a charge been brought  
against a Deacon.*

The Kirk-Session taking into consideration the fama (or the charge) brought under their notice, request the Moderator and Mr. \_\_\_\_\_ regarding the same, so as to ascertain whether further action by the Session may be necessary or not.

The Moderator reported in the case of Mr. \_\_\_\_\_, Deacon of this Congregation, that he acknowledged the truth of the fama against him, that he was deeply grieved on account of his sin, and was ready to make acknowledgment to the Session in due form.

Mr. \_\_\_\_\_, Deacon of the Congregation, appeared and confessed himself guilty, etc. etc.

In suspending Mr. from ordinances, the Kirk-Session find that he is *ipso facto* suspended from the Deaconship *sine die* (or, in a case requiring it, The Kirk-Session hereby depose him from the office of Deacon). Intimation of this sentence was appointed to be given to the Deacons' Court.

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*Specimen Minutes when a fama or charge affecting moral character is brought against a Ruling Elder.*

The Kirk-Session took into consideration a *fama* (or charge) which had come under their notice against Mr. F. G., a member of their own Court. Mr. G. being present, declared that he was ready to give explanations on the subject, but would rather state them privately, in the first instance, to one or two of the members, and he retired accordingly from the meeting. The Session appoint the following members to confer with him in private, and to report, viz.,

Mr. reported in the case of Mr. that he and Mr. had had a conversation with Mr. which was not satisfactory. After deliberation, the Session agree that the charge against him be drawn out in the following form, and sent to him with regular citation to attend and answer to it on the day of at o'clock.

The Kirk-Session of the Free Church Congregation at met, according to intimation from the pulpit, and was constituted,—Sederunt :

The Kirk-Session, having fully considered the evidence, find the charge proven ; and, while suspending Mr. from privileges, they at the same time resolve to depose him from the office of the Eldership.

They then engaged in prayer, the Moderator conducting the devotions, after which the Moderator, in name of the Session, solemnly pronounced the sentence of deposition.

Intimation of this sentence was appointed to be given to the Deacons' Court.

## 2. SPECIMEN MINUTES FOR THE KIRK-SESSION IN CASES OF ALLEGED HERESY.

(1.) The Kirk-Session had before them a complaint signed by members of the congregation, as follows:—(*Here take it in.*) The Session find that the allegations of this document, if well founded, involve the maintenance by T. D., a communicant (or Elder or Deacon) in this congregation, of opinions contradictory to the Confession of Faith and the Word of God, and entirely inconsistent with the professions made through communion in the Free Church of Scotland. The Session accordingly resolve to inquire carefully into the two questions which must be decided in a case of this kind, viz., *First*, Whether such opinions have been maintained by T. D., and how or in what form have they been expressed ; and *secondly*, Whether the expression of them by him amounts to a decided contradiction of the truths involved in the profession made by members of the Church (or in the case of an Elder or Deacon, "a decided contradiction of the Confession of Faith.") With the view of determining these questions, the Session appoint the Moderator, Mr. and Mr., a committee to make inquiry by conference with T. D., or otherwise, and to report.

Cases of Heresy.

(2.) The Kirk-Session, after considering the Report of their Committee in the case of T. D., and taking into account the statements made by him in conference and letters, resolve to cite him to appear at their bar on the day of , to answer to the charge of heresy, inasmuch as, etc.

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(3.) The Kirk-Session, having conclusive evidence before them that T. D. has maintained, etc., and that he declines to repudiate these opinions; find that they are entirely contrary both to the Confession of Faith, and to the profession made by communion with this Church; and therefore declare that T. D. is no longer a member of the Free Church of Scotland, and order his name to be removed from the Roll of Communicants in the congregation of . (If an Elder or Deacon, there must be the further minute :— “Further, the Kirk-Session hereby depose him from the office of the Eldership (or Deaconship)” or “declare him to be no longer an Elder (or Deacon)” according to the nature of the case.)

*Forms of Cita-  
tion.*

## 3. FORMS OF CITATION.

(1.) *Citation of Parties.*

Process may be instituted before Kirk-Sessions either “at the instance of a party complaining, or at least by order of the judicatory.” A verbal citation by the beadle is the method usually adopted in summoning the party accused, and, generally speaking, is all that is necessary. But in certain cases it may be proper to give a written citation to the party to appear before the Kirk-Session. And when the process is grounded upon a written petition or information, a copy of these writings should be served. A simple warrant of citation may be issued, bearing the title of the Court to which the party is to be cited, the name of the pursuer (if the action be not instituted by the Court itself), the ground of the action, and the time and place where compearance is to be made. This warrant runs in name of the Court, is addressed to its officers, and directs them to summon the party accused. It may be in the following terms :—

*Summons.*

The Rev. A. B., minister, and remanent members of the Kirk-Session of C. To P. S., our officer. We require you, that, upon sight hereof, ye pass, and lawfully summon D. E. personally, or at his dwelling-house, to compare before the said Session within the Session-house at the day of next to come, in the hour of cause, to answer to the information or libel against him for the sin and scandal of laid to his charge, with certification, etc. Given at the day of by warrant of the said Session.

(Signed) T. G., *Session-Clerk.*

A citation is then given in writing by the officer to the party in the following terms :—

*Citation by the Officer.*

I, P. S., church-officer of C., by virtue of a warrant from the Kirk-Session, dated the day of , lawfully summon you, D. E., to compare before the said Kirk-Session, within the Session-house at the day of next, at o'clock forenoon, to answer to the information or libel against you for the sin and scandal of laid to your charge, with certification, conform to the principal warrant. This I do upon the day of , between the hours of and , before these witnesses, N. K., and L. M., both residents in (Signed) P. S., *Officer.*

This citation is either given to the party personally, or left at his dwelling-house, with his wife, children, or servants, or by affixing a copy on the door, if he cannot get access, after knocking audibly several times. The citation must be made in presence of two witnesses, whose names are



inserted therein; and the warrant or summons is returned by the officer, accompanied by an execution subscribed by himself and the witnesses, setting forth the mode in which the service was made. Thus:—

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*Execution by the Officer.*

Upon the \_\_\_\_\_ day of \_\_\_\_\_, by virtue of a warrant from the Kirk-Session of C., dated the \_\_\_\_\_ day of \_\_\_\_\_, I, P. S., church-officer, passed, and in name and authority of the said Session, lawfully summoned D. E. to compare before the said Kirk-Session, within the Session-house at \_\_\_\_\_, upon the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ o'clock forenoon, to answer to the information or libel against him for the sin and scandal of \_\_\_\_\_ laid to his charge; with certification, conform to the said warrant in all points. A just copy of citation, to the effect foresaid, I delivered to the said D. E., personally apprehended (or I left for the said D. E., within his dwelling-place at \_\_\_\_\_, with his wife, to be given to him, because I could not find himself personally; or I affixed or left at the most patent door of the dwelling-place of the said D. E., at \_\_\_\_\_, because I could neither find himself personally, nor could I get access to the said dwelling-place, after giving several audible knocks at the most patent door thereof); which copy of citation was signed by me, did bear the date hereof, and the date of the said warrant, and contained the names and designation of N. K. and L. M., both residents at \_\_\_\_\_, witnesses present at the premises, and hereto with me subscribing.

(Signed) P. S., Officer.

N. K., Witness.

L. M., Witness.

A party can be cited only by the Kirk-Session of the congregation to which he belongs, and this may be done upon forty-eight hours' notice. If the person accused belongs to another congregation, the Kirk-Session of that congregation should be desired to direct the party to be cited to answer to the Session before which the process depends.

If the party cited fails to appear, being called at the door by the church-officer, a second, and afterwards a third citation follows; the two first are called dilatory, but the third is peremptory, and contains a certification to the party cited, that the Court will proceed to the cognition of the cause, though he should not appear, or that they will proceed against him as contumacious. Citations *apud acta* are likewise peremptory.

(2.) *Citation of Witnesses.*

The citation of witnesses is in the same form as that of parties, bearing the names of the pursuer and defender in the case; and, as in the case of parties, a verbal citation by the beadle is usually found sufficient. On their refusal to obey citation, they may be proceeded against as contumacious. (See Form of Process, chap. ii. § 9.)

The Kirk-Session issues citations to witnesses not only at its own instance, but at that of the pursuer and defender in any case. The forms of diligence may be as follows, *mutatis mutandis*:—

*Warrant to cite Witnesses.*

Mr. A. B., Moderator, etc. Forasmuch as C. D., pursuer in a process presently depending before us against E. F., for the sin and scandal of \_\_\_\_\_, having applied to us for a diligence to cite witnesses in the said

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matter, in manner and to the effect underwritten : Therefore we require you, that, upon sight hereof ye pass, and lawfully summon G. H. and L., personally, or at their dwelling-places, to compear before us within the Kirk of \_\_\_\_\_, upon the \_\_\_\_\_ day of \_\_\_\_\_, in the hour of cause, with continuation of days, to bear leal and soothfast witnessing upon the points and articles of the said process, in so far as they know, or shall be inquired at them ; with certification as effeirs. And this our precept you are to return, duly executed and indorsed. Given, etc., by warrant, etc.

The summons and execution against witnesses are the same as in the forms given above.

(3.) *Oath administered to Witnesses.*

The witness being before the Court, the oath administered is the following, the witness standing and holding up his right hand :—"I swear by the Almighty God, and as I shall answer to God in the great day of judgment, that I will tell the truth, the whole truth, and nothing but the truth, so far as I know, or shall be asked."

It is provided by the Form of Process, cap. ii. sec. xi., that the witnesses are solemnly to be purged of malice, bribe, or good deed done or to be done, and of partial counsel. In reference to this the following initial questions were put to them :—

Has any person told you what to say or promised or given you anything for your evidence ?

Have you any malice or ill-will against any of the parties ?

Have you any interest in the case ?—Form of Process, cap. ii. sect. 11.

## (4.) SPECIMEN MINUTES FOR THE PRESBYTERY IN CASES OF DISCIPLINE.

(1.) *Minute of Presbytery appointing Committee of Inquiry in a case of Fama against a Minister or Probationer.*Minutes of  
Presbytery.

At D., \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, which day the Presbytery of D. met, and was constituted, and being alone, it was stated by a member of Court, that certain very unpleasant reports were prevailing in regard to the character of Mr. A. B., preacher of the gospel within their bounds (or their brother, Mr. A. B., Minister of the Congregation at C.), whereupon the Presbytery, after due consideration of the same, appointed the following members, viz. E., F., G., and H., a committee to make further inquiry into the nature of the *fama* now prevailing against the said A. B., and to report to the Presbytery at their next meeting as to the procedure which it may be proper to adopt in this matter. Closed, etc.

(2.) *Minute appointing Presbyterial Visitation.*

The Presbytery having taken this matter into their serious consideration, did, and hereby do, appoint a visitation of the Congregation of C., to take place on \_\_\_\_\_ day of \_\_\_\_\_ next, that the elders and communicants of said Congregation may be examined respecting the rumours now prevailing in regard to their Minister. The Presbytery instruct Mr. E. F. to preach that day ; and they further appoint Mr. G. H. to preach in the Church of C., on Sabbath, the \_\_\_\_\_ day of \_\_\_\_\_, that due intimation of said meeting of Presbytery may be given to all concerned.\*

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\* Ten free days must elapse between the intimation and the meeting of Presbytery.

(3.) *Minute when Petition against a Minister is presented.*APPENDIX  
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The Presbytery being met, etc. Compeared Mr. L. M., and presented a petition, signed by certain persons, styling themselves heads of families in the Congregation of C., and members of the Free Church there, praying the Presbytery to inquire into certain reports now prevalent in regard to Mr. A. B., Minister of said Congregation (the particular crime alleged must be stated). The Presbytery being alone, resolved, after due deliberation, that the petition should lie on the table till their next ordinary meeting, then to be taken into consideration, and (should the person accused be absent) they appointed their Clerk to give intimation thereof to the said Mr. A. B.

(4.) *Minute when the Presbytery has resolved to serve a Libel upon a Minister in their own name.*

The Presbytery hereby approve generally of the form of libel prepared by their committee against Mr. A. B., Minister at . They resolve to consider its relevancy, and the propriety of serving it, at a meeting of Presbytery to be held at on the day of at o'clock. They hereby instruct their officer to summon Mr. in regular form to attend said meeting, and instruct their clerk to transmit to him a copy of the proposed libel, and of the minute now agreed to regarding it, in such time as to give him full ten days' notice, according to Act V. 1853.

(5.) *Minute when the Presbytery have considered the relevancy of a Libel against a Minister which they propose themselves to serve.*

At , the day of 18 .  
The Free Presbytery of met, etc. etc.

The Presbytery took up the case of the libel against Mr. A. B.

It was intimated on the part of the clerk and the officer that the instructions of last meeting had been complied with. Mr. A. B. appeared in his place as a member of Court. The Presbytery took into consideration the proposed form of libel against Mr. A. B.

It was moved and seconded that this form be found relevant as a libel.

It was also moved and seconded that it be found irrelevant.

The votes having been marked, etc. etc.

The Presbytery accordingly resolve to serve the libel upon Mr. A. B., as one which they have already found to be relevant. From which judgment Mr. A. B. dissented, and protested for leave to complain to the Synod of ; promising, etc. etc.

In accordance with Act IV. 1853, the Presbytery order the libel to be now served in due form, notwithstanding the dissent and complaint, and find that Mr. A. B. now ceases, *ipso facto*, to exercise the functions of his office.

(6.) *Minute, when it is certified to the Presbytery that the Libel has been served, notwithstanding a Dissent and Complaint.*

The Presbytery finding that the libel, as a libel found to be relevant, has been served in due form upon Mr. A. B., but that a dissent and protest for leave to complain have been duly recorded and acted on, hereby sist all further procedure in the case until a final decision on the relevancy shall have been pronounced by a superior Court.

(7.) *Minute when the Libel has been served without Dissent and Complaint, and the Presbytery desires to act under Act X. 1854.*

The Presbytery find that in this case it does not appear expedient for

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them, in the circumstances, to act both as prosecutors and judges, and therefore they hereby refer the case to the Synod of .

(8.) *Minute when Libel given in by the Members of the Congregation.*

Compeared Mr. L. M., , who gave in a libel against Mr. A. B., Minister of , which was authenticated by the signatures of the Moderator and Clerk, the tenor whereof follows (*here take it in*). The Presbytery having considered said libel, order a copy thereof, and of the list of witnesses annexed thereto, to be served on the said A. B., and direct their officer to cite him to compear before the Presbytery to answer the same at their next ordinary meeting, to be held on day of next, at o'clock; said citation to be made ten free days at least before said meeting.

(9.) *Minute of Meeting when accused Party appears, and the relevancy of the Libel is considered.*

The Presbytery-officer returned execution of citation against the said Mr. A. B., properly attested, bearing that he had, on the day of last, regularly served the said A. B. with a copy of the libel and list of witnesses, and duly summoned him to compear before the Presbytery this day, to answer to the same. Mr. A. B. being called, compeared. Mr. L. M. attended on behalf of the libellers. The libel having been read over, the following defences were given in on the part of Mr. A. B. (*here take them in*). Parties were then heard on the relevancy of the libel; and being removed, the Presbytery did, and hereby do, find the major proposition of the libel relevant; they also find the articles of the minor proposition relevant. Parties being called in, this sentence was intimated to them. The Presbytery appoint their next meeting to be held at on the day of next, for the purpose of dealing with the said A. B. according to the form of process; or of resolving to proceed to the probation of said libel according to law, and of granting warrant for summoning the witnesses, for proving thereof, as they shall see cause; and they instruct their Clerk to give timely information of said meeting to Mr. A. B., and that the Presbytery require that he appear personally.

Should the Presbytery be unsuccessful in bringing the accused party to an acknowledgment of guilt, they then resolve to proceed to probation.

(10.) *Minute when the Presbytery desires to act under Act IX. 1854.*

The Presbytery find that it does not appear expedient, in the circumstances, for the proof to be taken, except in the presence of those who have the power of giving a final deliverance as to its effect, and they therefore hereby refer the case to the Synod of .

(11.) *Minute of Presbytery resolving to try the Case themselves, and to take the Proof, although they are the Prosecutors.*

The Presbytery do not judge it expedient to adopt the course allowed by Acts IX. and X. 1854, and therefore resolve to proceed to take the proof.

(12.) *Minute when Presbytery resolve to proceed to Probation.*

The Presbytery having resolved to proceed to a proof of the charges in the libel, appointed their next meeting to be held at , on the day of for this purpose, and they authorized and empowered their

officer to summon such witnesses in the list appended to said libel, as to the libellers may seem meet, to appear in said place, on that day, to give evidence in the cause, and they appointed their Clerk to issue their edict for that purpose. Parties were summoned *apud acta* to attend said meeting.

The witnesses are cited, and examined, in the same way as before, *vide* Kirk-Sessions, pp. 307, 311.

The witnesses on the part of the prosecution having been examined, the defender is then allowed an exculpatory proof, the Presbytery granting warrant for the citation of the witnesses, as in the former case. The exculpatory proof being finished, the Presbytery come to a deliverance, after hearing parties on the evidence. If the libel infer deposition, and the crime be proved, sentence is then carried into execution, provided no appeal be taken to a superior court.

### (13.) *Form of Minute in case of Deposition.*

(Place and Date.)

Which day the Presbytery of D. being met, and duly constituted, etc. Deposition.  
Sederunt, etc. The Presbytery having had under their consideration the libel, at the instance of \_\_\_\_\_ against Mr. A. B., Minister of the Congregation at C., which set forth, etc., and the citation of the said A. B.—his compearance—his answers to the said libel against him—the proof adduced—and having found the same relevant by the acts and practice of this Church, to infer deposition, as also the articles of the said complaint, sufficiently proved by the depositions of the witnesses, and other proof adduced, viz., that (*here narrate the charges found proven*), as the proof adduced bears. Therefore, the Presbytery did, by their vote, depose the said A. B., likeas they hereby do, in the name of the Lord Jesus Christ, the alone King and Head of his Church, and by virtue of the power and authority committed by him to them, depose the said A. B. from the office of the holy ministry; prohibiting and discharging him to exercise the same, or any part thereof, in all time coming, under the pain of the highest censures of the Church.

Previously to the moderator pronouncing the solemn sentence of deposition, prayer is offered by one of the brethren.\*

### (14.) *Form of Deposition.*

In the name of the Lord Jesus Christ, the sole King and Head of this Church, and by virtue of the power and authority committed by Him to it, I do now solemnly depose you, Mr. A. B., Minister of the Free Church Congregation at C., from the office of the holy ministry, prohibiting and discharging you from exercising the same, or any part thereof, in all time coming, under the pain of the highest censure of the Church; and I do declare the church of C. vacant, from and after the day and date of this sentence.

If signs of penitence have been given, and the crime proved does not demand so severe a punishment as deposition, but still that so much guilt has been proved as that some punishment is called for, the court may *suspend* the accused from the exercise of his ministerial functions, and that either for a limited or unlimited period, as to the Presbytery may seem most proper in the circumstances of the case, and may declare the pastoral tie to be dissolved.

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\* Sentence of deposition must in all cases be reported to the General Assembly; and the Assembly alone can pronounce sentence of deposition on a Minister in his absence.

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If the person accused be a preacher of the gospel, he is, in the event of the libel being proved, deprived of his license.

(15.) *Minute in the case of Deprivation of License.*

The Presbytery therefore did, and hereby do, deprive the said Mr. A. B. of his license as a preacher of the gospel, declare that he cannot be admitted into any pulpit within the bounds of the Free Church of Scotland, and that he is disqualified to accept a call, or be received into any pastoral charge.

In the case of a minister being deposed, or a probationer deprived of his license, intimation thereof must be made to the Clerk of the Assembly.

(16.) *Citation of Parties by the Presbytery.*

(*Note.*—These Forms are subject to the alterations required by Free Church procedure when the relevancy of the libel has to be considered before it is served.)

*Warrant of Citation.*

At D., the day of 18 years, which day the Presbytery of D., being met and constituted, *inter alia*, the said Presbytery having heard, read, and considered the foregoing libel, at the instance of the said Presbytery against Mr A. B., Minister of C., for the crime of they did, and hereby do, grant warrant to, and authorise P., Presbytery officer, to serve copies thereof, and of the list of witnesses thereto subjoined, and of this deliverance, on the said A. B., and to cite him to appear personally before the said Presbytery at their next meeting, which is appointed to take place at the day of next, to answer thereto; and to give the said citation in writing, either personally or at his dwelling-place, bearing a competent time for his giving in his answers and objections to the said libel and list of witnesses, if he be so advised, at least ten days before the day of compareance.

A. B., *Moderator.*N. O., *Presbytery Clerk.*

The warrant is indorsed upon, or appended to the principal libel, and the officer should have the libel and warrant, or duly authenticated extracts thereof, in his possession, when he cites the party.

*Citation thereon.*

I, P., Presbytery officer, by virtue of a libel, at the instance of the reverend Presbytery of D., against you, Mr. A. B., Minister of C., for the crime of , and of the warrant and authority thereon by the said reverend Presbytery, of which libel, with the list of witnesses thereto subjoined, and warrant and authority thereon by the said reverend Presbytery, what is contained on this and the preceding pages, is a just and exact copy, do hereby lawfully cite you, the said A. B., to compare personally before the said Presbytery at their next meeting, which is appointed to take place at the day of next, in the hour of cause, at o'clock noon, to answer to the said libel; and I further charge and ordain you, the said A. B., to give in answers and objections to said libel and list of witnesses, if you be so advised, within days, at least ten free days before the said day of compareance. This I do upon the day of , in the presence of these witnesses, L. and M.

L., *Witness.*M., *Witness.*P., *Presbytery Officer.**Certificate of Execution.*

I, P., officer to the reverend Presbytery of D., hereby certify that upon the day of , 18 years, I did, in virtue of a libel at the



instance of the reverend Presbytery of D. against Mr. A. B., Minister of C., for the crime of \_\_\_\_\_, and of the warrant and authority thereon granted by the said Presbytery, lawfully cite the said A. B., to appear personally before the said Presbytery at their meeting, which is appointed to take place at \_\_\_\_\_, on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ next, in the hour of cause, at \_\_\_\_\_ o'clock \_\_\_\_\_ noon, to answer to the said libel; and I further charged and ordained him to give in answers and objections to the said libel, and list of witnesses thereto subjoined, if he be so advised, before the said day of appearance; a just and exact copy of which libel, and of the list of witnesses thereto subjoined, and of the warrant and authority granted thereon by the said Presbytery, having a citation attached thereto to the above effect, subscribed by me and the following witnesses, I delivered to the said A. B., personally apprehended (*if not personally*, by delivering the same at his dwelling-house), before and in presence of L. and M., witnesses to the premises and hereto with me subscribing.

L., *Witness.*

M., *Witness.*

P., *Presbytery Officer.*

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5. SPECIMEN MINUTE FOR THE SYNOD, IN THE EVENT OF A CASE COMING BEFORE THEM UNDER ACTS IX. AND X. ASSEMBLY 1854.

A reference in the case of libel against Mr. A. B., was brought before the Synod from the Presbytery of \_\_\_\_\_, under Act IX. Assembly 1854. *Minute of Synod.*  
Parties were called, etc.

It was moved and seconded that the Synod dismiss the reference, and instruct the Presbytery to proceed with the case themselves.

It was also moved and seconded that the Synod sustain the reference, etc. etc.

The Synod accordingly sustain the reference.

Thereafter it was moved and seconded that the Synod proceed to try the case.

It was also moved and seconded, that the Synod refer the case to the General Assembly, etc. etc.

The Synod accordingly refer the case to the General Assembly.

### 3. Forms of Libel.

#### 1. *Case of Theft.*

Mr. A. B., Minister of the Free Church Congregation at X., in the Presbytery of Z., you are indicted and accused, at the instance of C. D., Moderator, and E. F., G. H., etc., remanent members of the Presbytery of Z.,—That albeit by the Word of God, and the laws and discipline of the Free Church of Scotland, theft, especially when committed by a Minister of the Gospel, is a crime of a heinous nature, and severely punishable; yet true it is and of verity, that you, the said A. B., are guilty of the said crimes, aggravated as aforesaid, in so far as, *Imo*, On one or other of the days of the month of December 1862, or of the month of November immediately preceding, or of January immediately following, or at least on one or other of the days between the month of July 1862 and July 1863, the particular day being to the Presbytery unknown, you the said Mr. A. B., being then a Minister, etc., within the shop in Wilson Street, Glasgow, then occupied by Mr. M. O., bookseller and stationer there, now deceased, did wickedly and feloniously steal and theftously carry away a paper book, or a certain quantity of paper stitched or bound up, the property, or in the lawful possession of the said M. O. *2do*, [after various charges, the earliest being not more than five years before date of *Case of Theft.*

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libel.\*] Further, one or more of the said acts of theft having of late become notorious, a *fama* or rumour thereant has arisen in the village of X. and the neighbourhood, to the great scandal of religion and the destruction of your usefulness as a Minister of the Gospel at X. aforesaid: and the following documents will be produced in evidence against you, in support of the aforesaid charges:—viz., letter or draft-letter, dated, etc. etc., and will be lodged in the hands of the Presbytery Clerk, that you may have an opportunity of seeing the same.

All of which, or part thereof, being found proven by the Presbytery of Z., before which you are to be tried, you, the said A. B., ought to be deposed from the office of the Holy Ministry, or otherwise censured or punished according to the laws of the Church and the circumstances of the case and degree of your guilt in the premises, for the glory of God and the edification of the Church, and as a terror to others, to prevent them from committing such offences and sins in time coming.

(Signed)

O. N., Moderator.

W. P., Presbytery Clerk.

*2. Case of Drunkenness.*Case of Drunken  
ness.

Mr. A. B., Minister of the Free Church Congregation at X., in the Presbytery of Z., you are indicted and accused, at the instance of Mr. C., Moderator *pro tempore*, and Messrs. D., E., F., and G., members of the said Reverend Presbytery of Z.,—That albeit by the Word of God, and the laws and discipline of the Free Church of Scotland, drunkenness, especially on the Lord's day, and exhibited within the Church, and in the performance of the services of the Church, is an offence of an heinous nature, unbecoming the character and sacred profession of a Minister of the Gospel, and severely punishable; yet true it is and of verity, that you, the said Mr. A. B., are guilty of the said offence of drunkenness, aggravated as aforesaid, in so far as (1.) on Monday the        day of November, in the year Eighteen hundred and

, or on one or other of the days of that month, or of October immediately preceding, or of December immediately following, within the Manse or House then occupied by you at X. aforesaid, you, the said A. B., were so much under the influence of drink as to be unable to articulate distinctly. Further, (2.) on Saturday the        day of December Eighteen hundred and        , on one or other, etc., place above libelled, you, the said A. B., were so much under the influence of intoxicating drink as to be unable to conduct family worship on the evening of that day. Further (3.) on Sabbath, the        day of December Eighteen hundred and        , or on one or other, etc., you were under the influence of intoxicating drink to such an extent that your speech was inarticulate and you did appear in the Free Church at X. under the influence of intoxicating drink, and were thereby incapacitated from conducting the usual services in a proper manner.

All which or part thereof being found proven against you, the said A. B., by the said Reverend Presbytery of Z., before which you are to be tried, by your own public confession, or after habile and competent proof, you, the said A. B., ought to be punished according to the rules and discipline of the Church, and the usage observed in such cases, for the glory of God, the edification of the Church, and the deterring of others holding the same sacred office from committing the like offences, in all time coming.

Signed at X., in name, presence, and by appointment of the Presbytery of Z., this        day of        by

M. N., Moderator.

O. P., Clerk.

\* "If a scandal shall happen not to be noticed, in order to censure, for the space of five years, it shall not be again revived, unless it be of an heinous nature, or become again flagrant." Form of Process i. § 4.

## 3. Case of Fornication and Clandestine Marriage.

Mr. A. B., Minister of the Gospel at X., you are indicted and accused, at the instance of the Reverend C. D., Moderator *pro tem.* of the Free Church Presbytery of O., and the Reverend Messrs. E., F., G., and H., etc., remanent members of said Presbytery;—That whereas by the Word of God, and the laws and discipline of the Free Church of Scotland, fornication and living in a state of concubinage, and the entering into or contracting marriage irregularly and clandestinely, without proclamation of banns and not *in facie ecclesie*, especially when committed by a Minister of the Gospel, are offences of an heinous nature, dishonouring to God, and fitted to give occasion to the adversary to speak reproachfully, and therefore severely punishable; yet true it is and of verity, that you, the said A. B., are guilty of the said offences, or of one or other of them, in so far as within the Free Church Manse of X., or elsewhere to the prosecutors unknown, and on various occasions within the last eight months, you had carnal intercourse with your servant, J. P., whereby she is now pregnant with a child, of which you are the father. And you, the said A. B., have been living in a habitual state of concubinage with the said J. P. since at least the sixth day of January last, and down to the sixth day of August bypast, on which day you, with the said J. P., compared before J. N., Esq., one of Her Majesty's Justices of the Peace for the county of O. and K., and in his presence acknowledged yourselves to be married persons, husband and wife; or otherwise you, the said A. B., are guilty of the said sin of marrying irregularly and clandestinely without proclamation of banns and not *in facie ecclesie*, inasmuch as on the sixth day of August in the present year, having first by application to A. B., Procurator-Fiscal of the county of O., obtained a petition and complaint, to be presented by him to the Justices of Peace for the said county, against yourself and the said J. P., you did, accompanied by the said J. P., compare at K., before J. N., Esq., one of Her Majesty's Justices of the Peace for the said county, and did in his presence then and there, alongst with the said J. P., acknowledge yourselves to be married persons, husband and wife, without having caused banns of marriage to be proclaimed according to law, and without having followed any of the steps required to constitute a marriage *in facie ecclesie*, and you did thereafter, namely on the ninth day of the said month of August, tender an extract of the conviction or sentence of the said Justice of the Peace, following on the said compareance and acknowledgment to Mr. J. W., Registrar of the parish of K., for the purpose of obtaining the recording of a clandestine or irregular marriage between you and the said J. P.

All which, etc.

## 4. Case of Heresy.

Mr. A. B., Minister of the Free Church Congregation at X., in the Presbytery of Z., you are indicted and accused, at the instance of the said Presbytery of Z., in connexion with the Free Church of Scotland,—That whereas the publishing and promulgating false and unsound doctrines, at variance with the Holy Scriptures and with the doctrines and Confession of Faith of the Free Church of Scotland, by a Minister of the said Church, is an offence of an heinous nature and severely punishable; and more particularly, (1.) Albeit the doctrine that moral evil has no real existence, but is such only in appearance and in reference to man's limited views; (2.) As also the doctrine that native good and native tendencies to good, exist in a greater degree than evil and tendencies thereto, in the present estate and moral nature of man; (3.) As also the doctrine, etc., . . . (13.) As also the denial of the doctrine that the Lord Jesus Christ is very God as well as very man, that he freely gave himself a voluntary sacrifice unto death for sin, and that

APPENDIX  
XI. 3.

Forms of Libel.

Case of Fornication.

Case of Heresy.

APPENDIX  
XI. 3.*Forms of Libel.*

by his death he made a proper and real satisfaction to his Father in behalf of his people, are contrary to the Holy Scripture, and to the doctrine held by the Free Church of Scotland, and the Confession of Faith, more especially to what is contained therein concerning (1, 2, 3, 4, 5, 8, 9) human depravity, the fall, and man's natural relation to God, (10, 11) grace and regeneration, (6) the ultimate condition of the impenitent, (7) justification of faith, (2) the authority and obligation of revelation and the Divine Law; and (13.), the person and work of Christ; yet true it is and of verity, that you, the said Mr. A.B., hold and have promulgated the aforesaid tenets, and have avowed, published, and disseminated the same, in all or some of the books under mentioned written by you, and published to the world, *videlicet* :—

1. A Book entitled [*Here copy title-page*].

2. A Book entitled, etc.; all which books were printed and published by you, Mr. A.B., or by others acting under your authority and instructions, in or about the years respectively mentioned in their respective title-pages; and which books, being to be used in evidence against you, are lodged in the hands of the Clerk to the Presbytery, that you may have an opportunity of seeing the same. Of all which books you have judiciously acknowledged yourself to be the author, to the said Presbytery of Z., by letter under your hand, dated X., twenty-third September Eighteen; which books contain throughout an avowal, declaration, enforcement, and promulgation of the above-mentioned noxious, false, and unsound doctrines. More particularly, and without prejudice to the said generality—

1st, You, the said Mr. A.B., in the aforesaid work entitled, etc., and at pages 163 and 164 of the first volume of that work, made use of the following expressions, *videlicet* :—[*Here take in extract*].

2d, etc.—And the aforesaid letter by you, acknowledging the authorship of the several books before written, as also the other letters under mentioned, also written by you, as also the following Extract from the Records of the General Assembly; as also the following Extracts from the Records of the said Presbytery of Z.; as also the other papers and documents in the case under mentioned, being to be used against you, are lodged with the Clerk of Presbytery, or the person acting for him *pro tempore*, that you may have an opportunity of seeing the same :—[*Here follows List*].

All which, etc.

*List of Witnesses and Documents.*

At the close of the libel follows the list of witnesses (which is to be regularly served on the accused, with a full copy of the libel) in this manner :—

“List of witnesses to be adduced against you, the said A. B., for proving the foregoing libel :—

1. E. F., presently gardener to C. E., Esq., nor or lately residing at D.
2. G. H., now or lately residing at F.”

If there are articles to be produced in evidence, they should be thus expressed after the list of witnesses :—

“There will also be produced a further proof of the foregoing libel.”

(*Here mention Documents produced.*)

The list of witnesses and documents ought to be authenticated by the signatures of the Moderator and Clerk of the Presbytery, and by that of the libeller, if he is a private party.

## 4. Forms of Extracts.

APPENDIX  
XI. 4.

## 1. WHEN WHOLE MINUTE IS GIVEN.

*Forms of Extracts.*

At \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_ :  
 Which day the \_\_\_\_\_ of \_\_\_\_\_ having met and been  
 constituted,—Sederunt (*give it full*), etc. etc.  
 Extracted by \_\_\_\_\_

Clerk.

## 2. WHERE ONLY PART GIVEN.

At, etc. (*no Sederunt*).  
*Inter alia*, etc. etc.

Extracted by \_\_\_\_\_

Clerk.

## ADDENDUM TO APPENDIX VI. (p. 223).

## ACT 37 AND 38 VICT., CAP. 94.

An Act relating to Land Rights and Conveyancing, and to facilitate the  
 Transfer of Land in Scotland (7th August 1874).

Conveyancing  
(Scotland) Act,  
1874.

SEC. V. Unless where it has been or shall be otherwise stipulated, corporations shall pay at the date at which the first composition would have been payable if this Act had not been passed, and every twenty-fifth year thereafter, a sum equal to what but for the passing of this Act would have been payable on entry by a singular successor; and where a composition payable on the death of the vassal shall become exigible from any trustee or body of trustees, another composition shall be payable at the end of every twenty-five years, so long as the lands shall be vested in such trustee or trustees; and where by the terms of the feu rights of the lands a taxed composition is payable on the occasion of each sale or transfer of the property, as well as on the occasion of the death of each vassal, and a composition shall in consequence of the acquisition of the property become exigible from any corporation or from any trustee or body of trustees, another composition, unless where it has been or shall be otherwise stipulated, shall be payable at the end of every fifteen years from the date of such acquisition by such corporation or trustee or trustees, so long as the lands shall be vested in such corporation or trustee or trustees, with such interest, if any, as may be stipulated for in the feu rights during the not payment of casualties; provided always, that in the event of such corporation or of such trustee or trustees ceasing to be proprietors of the lands after having paid a composition or compositions in terms of this section the successor of such corporation or of such trustee or trustees who shall be duly infeft in the lands at the expiration of twenty-five years where a composition is payable on the death of the vassal, or at the expiration of fifteen years where a composition is payable on the occasion of each sale or transfer as well as on the occasion of each death, from the date of the last payment of composition as aforesaid, shall then pay a composition, and the casualties for and in respect of such lands shall thereafter become due and

*Addendum to  
Appendix VI.*

Conveyancing  
(Scotland) Act,  
1874.

payable at the same time and in the same manner as if such lands had never been vested in such corporation or in such trustee or trustees; and where by the terms of the feu rights of the lands a taxed composition is payable on the occasion of each sale or transfer of the property as well as on the occasion of the death of each vassal, and where an entry is implied in terms of this Act in favour of two or more parties having separate interests as life-renter and *fiar* respectively or as successive life-renters, a composition, or in the case of parties interested *pro indiviso* a rateable share of a composition, shall be due by and exigible from each of the parties who shall take or derive benefit under the implied entry in the order in which they shall severally take or derive benefit under such implied entry, with such interest, if any, as may be stipulated for in the feu right during the not payment of casualties.

SEC. XLV. When by the tenor of the title to any estate in land held in trust duly completed in favour of the trustee or trustees therein named, or any of them, and recorded in the appropriate register of sasines, the office of a trustee has been or shall be conferred upon the holder of any place or office, or proprietor of any estate, and his successors therein, any person subsequently becoming a trustee by appointment or succession to the place or office or estate to which the office of trustee has thus been or shall be annexed shall be deemed and taken to have a valid and complete title by infeftment in the estate, in the same manner and to the same effect as if he had been named in the completed and recorded title, without the necessity of any deed of conveyance or other procedure.



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